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RESPONSE
of an official opponent
to the dissertational research of Minnigulova Dinara Borisovna
on the topic of "Administrative-legal status of public civil servants
and the problems of its realization",
submitted for academic degree of a Doctor of law,
specialty 12.00.14. – Administrative law, administrative process,
to the dissertation council D.212.123.05 on the basis of the Moscow State Law
University of a name of O. E. Kutafin

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Dissertational research of D. B. Minningulova is devoted to a rather important topic that has great scientific and practical meaning. The relevance of the work is due, above all, the fact that the functioning of the Russian state as a whole, its ability to successfully meet the challenges of the XXI century is directly related to the high efficiency of the system of public administration. However, this efficiency cannot only be achieved by reforming the state apparatus itself, and requires filling it with highly qualified state servants.

Currently, public service reform in the Russian Federation continues under the provisions of the Decree of the President of the Russian Federation No. 261 from 10.03.2009 "On the Federal Program "Reform and Development of the Public Service in the Russian Federation (2009 - 2013)". According to this document the main directions of reforming and development of public service system in the Russian Federation are:

- formation of the public service system of the Russian Federation as a complete state-legal institute, creation a system of the public service management;
- introduction to the public service of the Russian Federation effective technologies and modern methods of personnel management;
- increasing the efficiency of the public service of the Russian Federation and the professional performance productivity of public servants.

It is quite clear that the implementation of these directions requires extensive research, substantial doctrinal elaboration. With regard to public civil service, many of these issues are solved in the thesis of D. B. Minnigulova, what determines not only its relevance, but also practical significance.

Despite the fact that the issue of the administrative-legal regulation of public civil servants activity has been repeatedly reflected in the works of legal-scholars (as well as representatives of some other sciences), it currently remains topical, as it can be stated that to date legislation on civil service in this area contains many gaps and ambiguities.

The thesis D. B. Minnigulova basing on the achievements of legal thought has brought in the administrative-legal science fundamentally new generalizations and conclusions concerning the administrative-legal status of public civil servants, has formulated provisions proposed for defense.

All this allows significant expanding of the scientific understanding on the content of administrative-legal status of public civil servants and its implementation in practice. The said above is consonant with the aim of the dissertation research, which consists of the developing a strategy of progressive development of public civil service through the prism of improving the administrative-legal status of civil servants and the synchronization of its private-law and public-law components, finding an optimal model of the administrative-legal status of civil servants that would be able to reflect the current needs of public administration and ensure continuous improvement of the work of the State Machinery. This aim, in the view of the opponent, has been achieved by posing and solving major research tasks.

In the thesis research the author put forward and justifies a number of proposals that are worthy of all-round support. So, we can agree with the conclusions on the fact that legal responsibility should not be included in the structure of the static legal status of public civil servants as it arises independently and only in special cases; on the impossibility of applying civil-law responsibility to public civil servants; on the need to address a number of gaps in the legal regulation of public civil service; on the swearing-in of public civil servants, and etc.

We find very important the proposal of the author on the need for amendments to article 73 of the Federal Law "On the Public Civil Service of the Russian Federation" in order to reflect in it the possibility of application the norms not only of labor law, but also other sectors of the Russian law: "to relations regulated by this Federal Law and subordinate normative legal acts containing the norms of service law". This proposal is not only of doctrinal importance, because its realization

will help to solve many problems arising in the practical functioning of the institute of public civil service.

D. B. Minnigulova also reasonably notes almost the full lack of proper regulation of relations of social partnership at public civil service in the current period. The author's proposal on making amendments to the Federal Law "On the Public Civil Service of the Russian Federation" should be supported.

Position of the dissertator on the establishment by the current legislation the duty of public civil service by a person who has signed a contract for training with the state body merits approval. D. B. Minnigulova in this case correctly notes that such a legal structure is in conflict with article 32 of the Constitution of the Russian Federation, and, in fact, is a forced labor. Solution proposed by the author – to establish an alternative provision, which provides for a return of money spent on training, if they have been allocated from the budget – completely eliminates this problem.

One of the unregulated areas of service relations at public civil service is the sphere of material responsibility. This gap is also suggested to be filled in the peer-reviewed thesis; the author pays a lot of attention to the grounds of material responsibility of public civil servants, the cases of limited, full material responsibility, and etc.

It should be noted that the thesis D. B. Minnigulova is based on the use of a wide range of methods of scientific research, study and systematization a large amount of relevant regulatory sources and scientific literature. This allowed the author to comprehensively assess the current state of administrative-legal regulation of the status of civil servants, set the shortcomings in the legislative regulation and enforcement practice and the ways to overcome them, formulate indubitable conclusions and reasonable proposals.

However, according to the opponent, the submitted thesis, as well as any other work of this kind, has certain shortcomings. Despite the high level of research conducted by the applicant and along with the undeniable advantages of D. B. Minnigulova's work, some approaches of the applicant to the understanding of the considered issues seem either controversial and contentious, or insufficiently justified, deserving more attention, requiring author's clarification.

1. So, the author's position in relation to the essence and specificity of official legal relations seems controversial. Criticizing earlier concepts of the ratio official and labor relations in public civil service, the author comes to the conclusion that "the most appropriate is… differentiation of legal relations of civil servants into official and labor ones. Labor relations should be considered as

the content of official relations, and official relations – as the form and expression of labor relations. Labor relations are internal relations and are generally beyond the interests of external actors (citizens, legal persons, state bodies), and service relations, being external, are constantly under control – in sight of the state and civil society".

In fact, this approach repeats the position of many scientists of labor law (A. V. Gusev, L. A. Chikanova, B. K. Begichev, etc.) with the only difference that the D. B. Minnigulova changes the terminology used by these authors, naming official-labor relations just labor, and state-official relations just official. This concept has been repeatedly criticized by legal-scholars (Yu. N. Starilov, A. A. Grishkovets, S. E. Channov, etc.).

As such, official relations are relations that are directly associated with the organization and functioning of state and municipal service. Therefore, in the literal sense, only public relations arising in the apparatus of state and municipal administration and whose aim is to ensure its proper operation can be official relations. However, they can also occur outside the framework of a single state body, linking various bodies and their officials. Their main feature is associated with their target purpose – they are aimed either at the organization of state and municipal service (i.e. the establishment of posts, definition of the status of state and municipal employees, development of job descriptions and regulations, etc.), or at direct ensuring of their operation (entry on duty, assignment of military and special ranks, class ranks, diplomatic ranks, attestation and disciplinary proceedings, etc.).

Public relations themselves that arise in the implementation by state or municipal employee of their powers during interrelations with the external in relation to the apparatus of state and municipal management organizations and individuals, which D. B. Minnigulova names official, neither are official, nor always fall within the scope of administrative law norms. So, for example, an investigator from the Prosecutor's Office, directing to a witness summons for questioning, performs actions aimed at the implementation of law enforcement functions of the Russian state, that are, ultimately, state-managerial ones. However, its powers in this case are governed not by administrative, but by criminal-procedural legislation, and the arising legal relation is not of administrative-legal, but of criminal-procedural nature. It is quite obvious that this range of public relations should not be included in the subject of official-legal regulation. Otherwise, as rightly notes about this A. V. Gusev, "in the field of regulation of public service will get a truly enormous range of public relations, in which the state participates in the face of state bodies and acting on their behalf public servants".

2. D. B. Minnigulova's position on the need to use a service contract at public civil service can be criticized. In her dissertation research D. B. Minnigulova pays much attention to criticism of the works of those professionals who believe that a service contract takes a secondary position in respect to the act of appointment to the position of a civil servant, is purely formal in nature and, ultimately, may be painlessly excluded from the legislation on civil service. D. B. Minnigulova herself finds it impossible to refuse from a service contract as a ground for the emergence and specification of administrative-legal status of public civil servants, because, in her opinion, "in the act of appointment to the position of a public civil servant reflect only public-law features of the organization of public civil service, which did not disclose the features of the passage of the public civil service and the specificity of implementation of the administrative-legal status of public civil servants".

In this case, the author ignores the fact that, in contrast to the labor legislation, service one is much more formalized, and the appointment of a civil servant to the post through the issuance of an appropriate act already defines the conditions for its performance in accordance with the current legislation. Of course, the legislation on public civil service allows a certain individualization of conditions of service for a particular employee (for example, regarding the regime of service time, establishment of specific allowances to salary, etc.), but this individualization may be well implemented by the same administrative acts.

D. B. Minnigulova after the manner of many representatives of the science of labor law, strongly emphasizes the liberalizing function of service contract, considering that it allows a public servant to achieve establishment of mutually acceptable for it and the employer conditions of performance (although she admits that at the present time, such a possibility is purely formal). However, it must be emphasized that the true liberalization of relations associated with the conclusion of a service contract in the civil service (i.e. a situation where the service contract terms are not imposed by the representative of an employer, but really formed by the parties) seems to us contrary to the very nature of public service and bearing a number of risks. This is due to the fact that under general rule the current legislation provides for competitive procedure for substitution of public civil service posts. Moreover, since the decision of contest committee about the won of a particular person is imperative, the representative of an employer in such a case must issue an act of appointment. However, after adoption of this act, at the conclusion of a service contract it will be at the mercy of requests of the appointed civil servant, because it will be obliged to conclude the service contract in force of the direct requirement

on this in article 13 and part 1 article 26 of the Federal Law "On the Public Civil Service of the Russian Federation", and it will not have any legal grounds for termination of appointment and dismissal from the civil service of this employee.

3. It is also difficult to agree with the author's position regarding the admissibility of participation of public civil servants in strikes. The dissertation substantiates author's findings that, firstly, the current legislation does not prohibit strikes by public civil servants (as well as termination of performance of their duties in other cases), and secondly, it is appropriate to allow such strikes and enshrine a corresponding right in the legislation.

In this connection it is necessary to note that, in accordance with paragraph 15 part 1 article 17 of the Federal Law "On the Public Civil Service of the Russian Federation" due to the passage of civil service a civil servant is prohibited to stop the performance of official duties in order to resolve an official dispute. D. B. Minnigulova believes that this prohibition applies only to individual official disputes. However, it is hardly possible to take such an interpretation, as in this case, the above norm would have to be formulated as the prohibition to stop performance of official duties in order to resolve an *individual* official dispute. Since, there is no such clarification it should be assumed that the legislature was going to prohibit civil servants to stop the performance of their duties in order to settle any official disputes.

Since, in accordance with article 398 of the Labor Code of the RF, strike is a temporary voluntary refusal of workers to perform job duties (in whole or in part) in order to resolve a collective labor dispute, the author's contention that paragraph 15 part 1 article 17 of the Federal Law "On the Public Civil Service of the Russian Federation" does not contain a clear "legal prohibition on strikes by civil servants" is clearly erroneous.

Also D. B. Minnigulova believes that public civil servants are not subject to prohibition of suspending work in the case of failure to comply with the due date of paying them wages and other sums of money under article 142 of the Labor Code of the RF. She makes such a conclusion on the grounds that article 142 of the Labor Code of the RF does not specify what exactly civil servants are prohibited to use this measure of self-protection. It should be recalled that, in accordance with part 1 article 2 of the Federal Law "On the System of the Public Service of the Russian Federation", the system of public service includes the following types of public service: public civil service, military service, law enforcement service. Thus, a civil servant in any case is a public servant and it, as a public servant, is expressly prohibited to stop the performance of its official

duties as a means of self-protection in accordance with article 142 of the Labor Code of the RF.

Defending the right of civil servants to strike, the author does not consider that the suspension of the activities of state bodies for a long enough period of time (inevitable in a strike) would make it impossible in most cases and the normal functioning of the subordinate state-owned enterprises and institutions, and significantly hampered the activities of other organizations that interact with these state bodies; would entail massive failure of the legitimate rights and interests of citizens.

Defending the right of civil servants to strike, the author does not consider that the suspension of the activities of state bodies for a quite long period of time (inevitable in a strike) would make it impossible in most cases the normal functioning of the subordinate state-owned enterprises and institutions; would significantly hamper the activities of other organizations that interact with these state bodies; would entail massive inability of exercising the legitimate rights and interests of citizens. Prohibition on the suspension by public servants of execution of their official duties is not a whim of the legislator, and an objectively defined by the need to prevent negative social consequences for the whole society.

4. One can argue with the author's approach on the directions of development of legislation on disciplinary responsibility of public civil servants. The author criticizes the position of those scholars (M. V. Presnyakov, S. E. Channov), who believe that the formation of the institute of public disciplinary responsibility at public civil service requires more formal compositions of disciplinary cases along with the simultaneous decrease of discretionary powers of the representative of an employer in these issues. According to D. B. Minnigulovoy "this attempt does not appear to be ... appropriate because it requires typifying the types of disciplinary cases (peculiarities of improper performance of official duties), what is quite unrealistic. In addition, it greatly limits the range of disciplinary punishments depending on the specific circumstances of a disciplinary case, the peculiarities of its commission and the identity of a civil servant".

It seems that the author in this case does not quite correctly understand the essence of the proposed concept of public disciplinary responsibility, which does not require typifying all kinds of disciplinary cases. Question is only of the formation of a system of public disciplinary cases encroaching on the entire system of proper functioning of the state apparatus, the responsibility for which must be incurred regardless of the desires of the representative of an employer. It is not only real,

but is already quite successfully applied by the legislator (see for example: Federal Law No. 329-FL from November 21, 2011).

The author's argument that in this case the representative of an employer has a significantly restricted choice of disciplinary punishment is in principle correct. However, such a restriction (but by no means complete elimination of choice!) seems to be more appropriate than a situation where the representative of an employer may by its unmotivated decision completely release a public servant, who has committed, for example, a corruption offense, from responsibility (and to do it repeatedly!). Meanwhile, this is what D. B. Minnigulova allows when she writes that "the representative of an employer being guided by the principles of individuation, appropriateness and fairness may reasonably choose the most suitable type of disciplinary punishment or opt out of bringing an offender to responsibility".

Such an approach that is possible for a commercial organization (when from committing a disciplinary offence by an employee may suffer only the interests of an organization) seems to us totally unacceptable in public service.

Then D. B. Minnigulova also writes: "the argument that at such an approach subjective factors may manifest is not valid, since subjective (personal) attitude always take and will always take a place in the organization of civil service". But just hardly valid is the author's position on the considered matter, since the indisputable fact that subjective attitude will always have place in official legal relations does not prevent the reduction of this subjectivity by legal means. The approach of D. B. Minnigulova in this case is seen as an abandonment of solution to this problem in principle.

5. Finally, proposals of the author about the need for adoption Federal Laws "On the Legal Status of Public Civil Servants of the Russian Federation" and "On Administrative Procedures of Realization the Status of Public Civil Servants of the Russian Federation" seem insufficiently justified. The proposal has been worded as one of the provisions submitted for defense, and is also repeated in the text of the thesis. However, at that, nowhere is stated: what, in fact, is the need to take certain federal laws on these issues and why they cannot get proper regulation in the basic Federal Law "On the Public Civil Service of the Russian Federation"? It seems that in this case the author should have to pay more attention to the arguments of her position, and, perhaps, it would make sense to develop in the very dissertation the concept and approximate structure of these laws.

These comments are to some extent polemical and advisory in nature, do not detract from the undoubted scientific value of the research, do not affect the overall

high assessment of the thesis of D. B. Minnigulova, and, as is evident from their content, are not of a fundamental nature.

Thesis abstract discloses basic ideas and conclusions of the work, author's contribution to the study, degree of novelty and practical significance of its results. It includes all the necessary attributes and compactly explains the study essence. The main provisions obtained in the course of scientific research are reflected in the publications of the applicant. They correspond to the research topic and fully disclose its content.

The foregoing allows to conclude that the dissertation work of Minnigulova Dinara Borisovna on the topic of "Administrative-legal status of public civil servants and the problems of its realization" fully complies with the requirements of paragraph 7 of the Provision on the procedure for the award of academic degrees, approved by the Decision of the Government of the Russian Federation No. 74 from January 30, 2002 (as amended on 20.06.2011, No. 475), and its author deserves the award of the academic degree of a Doctor of law, specialty 12.00.14 – administrative law, administrative process.

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THE TOPICAL ISSUES OF ADMINISTRATIVE-LAW REGULATION OF STATE STRATEGIC PLANNING AND PREDICTION IN TODAY'S RUSSIA

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Here is noted that the civil-law nature of the regulation of public relations in the sphere of public law is a precondition for corruption in the activities of public authorities and officials. The disadvantage of such order of legal regulation envisaging discretion and freedom of will for the subjects of economic relations is that it eliminates public-law nature of social relations with the participation of state bodies, local self-government and their officials.

The author argues that the legislative regulation of managerial relations in the field of predicting and planning largely does not comply with the needs of modern economic development of Russia.

A detailed critique of the basic definitions of the draft law "On State Strategic Planning" is given in the article. Here is also noted reference and blanket nature of the presentation the norms of the proposed draft law and rather abstract nature of proposed wordings.

Keywords: administrative-law regulation, state strategic planning, state strategic predicting, state economic policy, public administration.

Analysis of federal legislation gives grounds to state that currently there is no sufficient legislative basis for the implementation of comprehensive systematic predicting and planning of economic development and its modernization in the Russian Federation, subjects of the federation and bodies of local self-government. At the same time, achievement of positive results of the economic development of Russia in the implementation of market mechanisms is possible only if provided a comprehensive and systematic planning and predicting, determining the strategic directions of economic policy of the state, which takes into account the interests of the state, business and population, developed through a combination of federal and regional principles.

It seems that the economic policy of the state is inherent not only to the planned economy, but also to market economic relations. This is due to the need of the State to implement its economic and social functions. In this regard, the economic policy of the state should be of a generally binding nature for all the structures and participants of the state mechanism, what is achieved through its legal consolidation. Economic policy, which is defined in the programs of political parties that won a majority in elections, through its normative and legal consolidation through state mechanisms gets the nature of the legal economic policy of the state.

In a legal state (Russia as such is defined in article 1 of the Constitution of the Russian Federation) the law must be the primary regulator of social relations, displacing subordinate acts from the sphere of legal regulation. Unfortunately, it must be noted that currently this provision has largely programmatic nature, since the role of subordinate acts in the regulation of the socio-economic sphere of society and the state is excessively large. In this case, the existing legislative regulation often has a blanket nature, laws often relegate the issues of establishment the mechanism of their implementation to the competence of the Government of the Russian Federation.

In modern Russia economic relations are generally considered through private-legal aspect and regulated by the rules of civil law, even in the case of participation of bodies of state power and local self-government, state and municipal institutions. Practice shows that in itself a civil-law nature of regulation of public relations in public-law sphere is a corrupt condition in the activities of public authorities and officials. This is partly due to the absence in the Russian civil law of a concept of a legal person of public law, the assigning of the whole sphere of economic relations to the civil-legal regulation and the use of civil-law regulation methods. The disadvantage of such an order of legal regulation stipulating optionality and freedom of the will of the subjects of economic relations is that it

eliminates the public-law nature of public relations with the participation of state bodies, local self-governments and their officials, the need to implement in them state-meaningful goals, interests and motivation of behavior of the parties involved in legal relations, vested with public powers. Practice shows that there is lost socially useful motivation of subjects of legal relations, not fulfilled the requirements on the intended purpose and use of material resources of state and municipal nature as objects of civil-law contractual relations when takes place civil-law regulation of social relations, which have state-law and municipal-law nature and status of subjects. The consequences of this can be observed in cases involving "Oboronservis", where state property ceased to be used in the interests of strengthening the defense capability of the State, after being transferred to a holding company by way of some privatization manipulations changed its state-legal nature and was sold at reduced prices, becoming the object of interests of individuals and companies [7].

Describing the state of legislative regulation of managerial relations in the field of predicting and planning, it should be noted that in many respects it does not meet the requirements of the modern economic development of Russia, because it does not cover the whole spectrum of economic, social and political public relations, all levels of managerial relations, which require a systematic analysis and accounting in the development and adoption of plans and forecasts that are strategic in nature. Currently, public relations in the field of strategic planning and predicting are regulated by a number of regulatory legal acts, including: Federal Law No. 115-FL from July 20, 1995 "On State Predicting and Programs for Socio-economic Development of the Russian Federation"; Fundamentals of strategic planning in the Russian Federation, approved by the Decree of the President of the Russian Federation No. 536 from May 12, 2009; Concept of a long-term socio-economic development of the Russian Federation until 2020, approved by the Order of the RF Government from November 17, 2008; Order of the Ministry of Regional Development of Russia No. 14 from February 27, 2007 "On Approval of the Requirements to the Strategy of Socio-economic Development of a Subject of the Russian Federation" and a number of other substatutory documents called as strategies. Unfortunately, neither the provisions of law nor orders approved in violation of the procedure established by the federal constitutional law "On the Government of the Russian Federation", which are not legislative in nature, provide a sufficient level of normative-legal regulation of social relations in the field of planning and predicting.

The most important current strategic documents in the field of socio-economic development, having a comprehensive nature and defining the main directions of the state policy at federal level in the long term, are Fundamentals of strategic

planning in the Russian Federation [5]. However, their sublegislative nature also does not provide the necessary legislative level of regulation of this quite important for the state and society sphere of social relations that define the main directions of their development and the state of economic, environmental, political, and social security.

To the resolving of this task is directed the adoption of a federal law regulating the issues of strategic planning and predicting. The State Duma of the Federal Assembly of the Russian Federation is considering the draft Federal Law No. 143912-6 "On the State Strategic Planning" submitted by the Government of the Russian Federation and passed in the first reading on the 21st of November, 2012. The draft law is prepared by the Ministry of Economic Development. According to the authors of the draft, the main idea of the document is to create a legal framework for the development, building and operation of an integrated system of state strategic planning of socio-economic development, designed to meet the challenges of improving the quality of life of the population, growth of the Russian economy and ensuring national security. It aims to harmonize the various planning documents, such as the National Security Strategy of the Russian Federation Territorial planning schemes, military doctrine, and others [10]. It aims to harmonize the various planning documents, such as the National Security Strategy of the Russian Federation, Territorial planning schemes of the RF, Military doctrine, and others [10].

Of course, the prepared draft is objectively necessary, its adoption would solve many issues of planning and predicting of the main directions of socio-economic development of the Russian state, strengthening its political and economic sovereignty and defense potential. However, it should be noted that the draft does not solve the tasks of legislative regulation and providing a mechanism of state socio-economic predicting and long-term planning. While, they are quite effective means of public administration in the economic sphere that are designed to ensure stable social-oriented development.

The authors of the draft law define a quite wide range of actors involved in strategic planning. The draft is replete with new concepts and categories, which have an uncertain legal nature and content, and have not been previously applied in normative legal acts. The wordings of the draft do not meet the requirements of legal technique, as well as of the concepts and categories worked out in the theory of administrative law.

As follows from part 2 article 1 of the draft law, it regulates relations arising between the participants of state strategic planning in the process of predicting, result-oriented and territorial planning, as well as monitoring of the implemen-

tation of state strategic planning documents, including in development, approval and adjustment of state strategic planning documents. That is, the object of legal regulation is social relations in the sphere of predicting, planning and monitoring, the participants of which are the organs of state power and management. Should be noted that predicting, planning and monitoring have different target value. Predicting and planning define strategic directions of activities of state bodies in various spheres of public administration, while monitoring at its core is an observation and evaluation of activities' results in order to achieve goals.

The designated in the draft law approach replaces main concepts developed in the theory of public administration and administrative law. In article 3 the draft law defines key concepts used in the law. So, state predicting is defined as "regulated by the legislation of the Russian Federation activity of federal bodies of state power, bodies of state power of the subjects of the Russian Federation and local self-government bodies with the participation of public, academic and other organizations to develop a science-based understanding of the potential risks of social and economic development and threats to national security of the Russian Federation, the directions and results of socio-economic development of the Russian Federation and the subjects of the Russian Federation, to define the parameters of the socio-economic development of the Russian Federation, the achievement of which ensures the implementation of the aims of social and economic development of the Russian Federation and the priorities of social and economic policy with taking into account the tasks of the national security of the Russian Federation".

The definition is fairly open-ended. It implies that the state predicting is an activity that is carried out by a fairly wide range of actors, including public authorities of the federation and the subjects of the federation, local self-government bodies, as well as public scientific and other organizations involved in the elaboration of science-based understandings of the potential risks and threats. At that, the form of outward expression and consolidation of such activity, the types and legal nature of acts taken by public authorities and local self-government bodies as a result of its implementation are not specified. The absence of normative-legal consolidation of the normative-legal form of predicting results predetermines the proposed form of implementation the analyses of its effectiveness and achievement of a predictable result in the form of monitoring.

In article 3 of the draft law the monitoring of implementation of state strategic planning documents is defined as an activity on a comprehensive assessment of key financial and economic indicators, as well as budgetary commitments contained in the state strategic planning documents, in order to establish the ability to achieve

within planned time frames the strategic goals of sustainable socio-economic development of the Russian Federation and ensuring national security, taking into account the efficiency of use of public funds and the risks associated with achieving these goals.

The principal value of the procedure of establishing the results of state predicting in the form of normative legal act lies in getting by the state predicting of properties of a norm of law, obtaining of a formal certainty, generally binding nature, support of its implementation by the possibility of use of state coercion and responsibility for failure to comply with it. Regulatory and legal establishment of state programs and predictions suggests that the method of public administration aimed at ensuring the implementation of the state strategic prediction is a government control over its execution, and the consequence of its non-fulfillment is the responsibility to the state. Version of an external design and enshrining of the state strategic predicting proposed by the authors of the draft law does not solve the problems facing the state in this sphere of state activity. Lack of normative-legal form of expression the activities of state bodies and local self-government bodies for strategic planning and predicting, determines the non-binding nature of their predictions and, on this basis, the appropriate nature of definition their results in the form of monitoring. With this approach to defining and enshrining "strategies" and "forecasts", it is not by accident that many of the already-approved long-term predictions have been consigned to oblivion and the development of the economic and political spheres is being carried out in the so-called "manual" control.

In the theory of administrative law the form of public administration (activities of executive power) is commonly understood as the outward expression of content of management, outwardly expressed action of an executive authority, carried out within the framework of its competence and causing certain consequences. Forms of governance are considered as a juridical way of external expression and internal organization of managerial activity.

Under the form of administrative and public activity realize external official, legal or non-legal way to express this activity on the part of an administrative body [6, 319].

In this regard, we find undisputed the definition of the system of state strategic planning proposed in article 3 of the draft law, as a "set of participants of the state strategic planning, interrelated documents of state strategic planning, characterizing the priorities of socio-economic development of the Russian Federation and ensuring national security, and normative-legal, information, scientific and methodological, financial and other resource support for the state strategic plan-

ning". There are two concepts that characterize the form of public authorities' activities for the state strategic planning in this definition. This is a reference to the system of "interrelated documents of the state strategic planning" and "normative-legal support" of the state strategic planning. From this definition, it follows that the form of strategic state planning as an administrative and public activities of the bodies of state and municipal government, the official way to express this activity are the documents of the state strategic planning.

It should be noted that the notion of "state strategic planning documents" is frequently used in the text of the draft. The authors of the draft give the definition of this notion. Under the system of state strategic planning documents is proposed to understand "a totality of interrelated state strategic planning documents regarding strategic goals, tasks, timing and sources of resource support". This definition raises a lot of questions in terms of the proposed in it criteria of systematization and interrelation of "the state strategic planning documents" in its goals, tasks, timing and sources of resource support, since predicting and strategic planning have a long-term perspectives and a comprehensive systematic nature. In this regard, they may contain different time terms, different sources of funding and resource support, they may contain a set of tasks aimed at the realization of the goal, to achieve which "the state strategic planning document" has been adopted.

It is necessary to pay special attention to the proposed in the draft law form of implementation of administrative and public activity in the form of "the state strategic planning document". The notion of "state strategic planning document" is given in article 3 of the draft. It is defined as "documented information developed, reviewed and approved by the public authorities of the Russian Federation, public authorities of the subjects of the Russian Federation and other participants of the state strategic planning in accordance with the requirements established by the normative legal acts provided in article 2 of the current Federal Law in order to ensure state strategic planning process". According to article 2 of the draft "the legislation of the Russian Federation on the state strategic planning consists of federal constitutional laws, the current Federal Law, federal laws, and adopted in accordance with them normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, federal executive bodies, laws and other normative legal acts of the subjects of the Russian Federation, and municipal legal acts regulating the relations defined in article 1 of this Federal Law".

It should be noted that reference and blanket nature of presentation the norms of the proposed draft law, as, indeed, rather abstract nature of the proposed wordings, are its characteristic feature, indicating the poor quality of its prepara-

tion from the point of view of compliance with the rules and principles of legal technique. Enough to draw attention to the fact that the authors forgot to include in the sources of law the Constitution of the Russian Federation and norms of international law. Whereas it is the Constitution of the Russian Federation defines priorities, key strategic goals and objectives, functions that stand before the bodies of state power and local self-government, and must be taken into account in the state strategic planning and predicting. Introduction of a large number of new for the system of state and municipal management concepts has necessitated their definition in the text of law. However, the presence of excessive amount of these novelties that are not based on already available in the theory and practice of acts of external expression of activity on exercising powers by public authorities and local self-government bodies in the form of acts of management, determines the possibility of emergence legal conflicts in their implementation.

It should be noted that the form of administrative and public activity of a body of state power and local self-government is of crucial value in the mechanism of management. In the theory of administrative law rightly point out that through the forms of administrative and public activity express its content and the methods of this activity used by administrative bodies. As the methods of expression (forms) of administrative and public activity stand out the commission by administrative bodies of various legal and illegal actions, issuance (adoption) by them normative and individual legal acts [6, 319]. In the administrative-legal literature the forms of exercising public administration (executive power) on the content are classified, as a rule, into two main types: legal and non-legal. The wording of articles of the proposed law and use in it of the concept of document provides a basis for the conclusion that the authors do not assume during the state strategic planning an adoption of a managerial act that has normative-legal nature. Since the concepts of "act of management", "legal-normative act", which have become largely traditional forms of expression of public authorities' activities, are not used in the proposed draft.

The proposed amendments to the state strategic planning documents also do not meet the legal technique. In theory of law emphasize three forms of rule-making process: adoption of a new norm, amendments and additions to an existing norm and abolition of a law norm. The draft uses the concept of "adjustment of the state strategic planning document", which is defined as "partial amendment of the text of the document without changing the period for which was developed the state strategic planning document". Hardly can be called reasonable such approach to definition the way of expression the activities of state bodies and local self-gov-

ernment bodies for planning and predicting of different spheres of state activity.

One can hardly consider it reasonable and permissible to use the concept of "document" in relation to the acts of public authorities on the state planning and predicting, no matter whether it has a strategic, long-term or short-term nature. Let's turn to the etymology of the word "document" to analyze the validity of its use. It has different semantic meanings. In a broad sense it is information recorded in a tangible medium with requisites that allow its identification. In this sense the document is used in the Federal Law "On Information, Informatization and Protection of Information" [4] and in the Federal Law "On Participation in the International Exchange of Information" [3]. The document also refers to a material object with recorded information contained therein in the form of text, audio, or images to be transmitted in time and space for storage and public use. In this sense it is used in the Federal Law "On Librarianship" [2].

In jurisprudence the document refers to a drawn up in accordance with established procedure act that certifies a juridical fact (birth, marriage) or an event, serves as evidence relevant to the circumstances of a case (written evidence), or providing for (terminating) the right to anything (contract, diploma, testament); any fixed in a tangible medium (usually written) act, which has legal effect, evidentiary, entitling or service value. In this sense, documents are subjected to special requirements on the form and content of their compilation. From a document has to be seen who has made it, and what is its content? The text of a document must be set out concisely and comprehensively; the presentation should not be open to different interpretation of words; it is not recommended to use a little-known abbreviations and notations, if they are not deciphered, foreign words and special terms that are not widely known, if they are not explained in the text. Documents are classified on different grounds. Distinguish public emanating from the bodies of state power and management, and private documents. In flow of documents distinguish incoming and outgoing documents, on the degree of openness stand out documents available to the public, restricted, secret, top secret documents, etc. [11].

The Federal Law No. 77-FL "On Obligatory Copy of Documents" document is defined as a material carrier with recorded in it any form of information in the form of text, audio, image and (or) their combination, which has details that enable it to be identified, and is designed for transmission in time and space for public use and storage. [1]

Juridical document is a tangible medium, compiled in accordance with an applicable legislation, which creates rights and responsibilities of individuals. An important type of documents – different certificates confirming the identity of

a person, its belonging to an organization or permission to engage in certain activities [9].

The above interpretations of the notion of "document" indicate the presence of different meanings embedded in it. This gives rise to its different interpretation in law enforcement practices and, as a consequence, the appearance in it of collisions of law norms, the lack of implementation mechanisms and bases for responsibility for infringement.

As has already been noted, depending on the nature and consequences all forms of administrative and public activity are divided into two types. The first of them is legal forms of administrative and public activity, which are external forms of its expression and are characterized by the occurrence or the possibility of the occurrence of certain direct or indirect consequences for those subjects, in respect of which these activities are carried out. Depending on the content and purpose of implementation of administrative and public activity, distinguish law-making form, law-regulative form and law-enforcement form. Depending on the orientation of administrative and public activity, distinguish internal and external forms.

The second type – non-legal forms of administrative and public activity. These are the means of the external expression of this activity, characterized by the absence of direct legal consequences and inability of their emergence for those subjects, in respect of which these activities are carried out. These include organizational-administrative and material-technical actions. In the literature also highlight such a form of administrative and public activity as making legally significant actions of power, which refers to the impact of an administrative body on a particular individual or legal entity not arranged through issuing (adoption) of an individual legal act, and it is carried out on the basis of the relevant norms of administrative law in order to ensure the legal regulation of the conduct of that person, legal protection of its rights and lawful interests, as well as the rights and lawful interests of other persons, security of society and the state. At that, it is noted that administrative and legal actions can be performed through the applying by administrative bodies of such types of impact of power as: documentary-legal, organizational-legal, technical-legal, property-legal, and personally-legal. Under the documentary-legal type of the impact of power understand an impact exercised through drawing up by an administrative body or an authorized representative of official documents that have legal significance to the person in respect of whom this document is drawn up, as well as to others (drawing up a protocol on administrative offence, certificate of inspection, official document,

conclusions, written response to an application, complaint, and etc.).

From the above analysis it follows that a document, as a provided for in the draft law form of implementation administrative and public powers of authority by bodies authorized to carry out state strategic planning, is not an appropriate external form of expression the activities of state and local self-government bodies for state strategic planning and predicting. The concept of "document", by virtue of the prevailing practice of law application and regulation, is largely of an individual legal significance to a person in respect of whom it is adopted, as a result of committing of legally significant action by a body that implements public powers of authority in respect of a particular individual or legal person. It is hardly reasonable to consider a document as a form of exercising public powers of authority. These powers are exercised by the participants of the state strategic planning, which include quite a wide range of public authorities of the Federation, subjects of the federation and local self-government bodies. So, at the Federal level, the number of subjects of the state strategic planning includes: the President of the Russian Federation, Federal Assembly of the Russian Federation; Government of the Russian Federation, Security Council of the Russian Federation, Accounts Chamber of the Russian Federation, Central Bank of the Russian Federation, federal executive authorities, other bodies and organizations in cases provided for by normative legal acts. At the level of a subject of the Russian Federation, to the subjects of the state strategic planning has been offered to include: a senior official of a subject of the Russian Federation, body of legislative authority of a subject of the Russian Federation, control and accounting body of a subject of the Russian Federation, the highest executive body of state power of a subject of the Russian Federation, executive bodies of state power of a subject of the Russian Federation, local self-government bodies of a subject of the Russian Federation, other bodies and organizations in cases stipulated by normative legal acts [8]. It seems that, with taking into account the proposed in the draft law range of subjects, in determining the external form of exercising their powers for the implementation of state strategic planning, one should base on the constitutionally established forms of their exercising. These are normative or individual acts. The President exercises its powers by issuing decrees and orders, the Federal Assembly of the Russian Federation issues Federal laws and decisions, the Government of the Russian Federation issues decisions and instructions, etc. Hardly in this regard is reasonable to legislatively determine that the President of the Russian Federation, the Federal Assembly of the Russian Federation and the Russian government adopt documents of the state strategic planning. In the theory of state and law and the theory of administrative law have formulated a common

notion encompassing the existing forms of exercising powers by public authorities and local self-government, this notion is "act of management". The notion of "act of management" is more acceptable to define the form of exercising powers of the subjects of state strategic planning than the notion of "document".

The law should define the legal nature of acts of the state strategic planning. They must have the nature of normative-legal acts. The definition proposed in the draft law, which does not provide for the legal nature of "state strategic planning documents", makes such planning illusory, having the nature of assumptions and wishes, not mandatory, and irresponsible for its performers. With such a nature of "documents", there is no need in the designed by them strategic planning for the supreme bodies of state power of the federation and the subjects of the federation included in the range of subjects of the state strategic planning.

Unfortunately, the content of the proposed draft provides grounds for the conclusion that in this form it cannot solve rather acute problems of comprehensive, systematic and responsible planning and predicting of the development of economic and socio-cultural sphere, strengthening the defense capability and sovereignty of the state that are facing the state.

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SIGNIFICANCE OF PROCEEDINGS ON THE CASES ARISING FROM ADMINISTRATIVE AND OTHER PUBLIC LEGAL RELATIONS FOR IMPROVING THE SYSTEM OF PUBLIC ADMINISTRATION

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The author provides an overview of both classical theories of ensuring effectiveness of public authority bodies' activity, and contemporary approaches and concepts to the problem and the role of judiciary activity to control the legality of deeds and acts of the public authorities and consequently the efficiency of their activities within the framework of legal procedures.

Keywords: court proceedings, administrative legal relations, public legal relations, public administration, proceedings on cases arising from public legal relations, administrative-legal disputes.

The problem of creating an effective system of bodies of public administration has been known to mankind since the emergence of a state. The concept of separation of powers and democratic centralism arise precisely because of the need to solve this problem.

The issue of effectiveness of public administration at the present time lays not so much in terms of management, as in terms of activities of law sciences, since a modern constitutional state is impossible without a developed legal system and existence of effective control mechanisms.

Relevance of the problem of improving the system of public administration bodies in modern Russia is confirmed, in particular, by the adoption by public administration bodies of legal acts on reforming and improving the efficiency of the state mechanism. To particular aspects of reforming the system of public administration dedicate the decree of the President of the Russian Federation No. 601 from May 07, 2012 "On the Main Directions of Improving of Public Administration System" [3], which enshrines system optimization as well as the basic indicators of provision quality assessment and measures aimed at improving the provision level, state and municipal services.

In particular, the above-mentioned decree provides for an order to the Government of the Russian Federation to reduce barriers of accessibility to justice in the event of the need for legal proceedings on cases arising from administrative and other public legal relations, as well as to develop appropriate legislative initiatives in the period up to September 01, 2012 [3].

Provisions of the decree of the President of the Russian Federation No. 601 from May 07, 2012 show a recognition of the value of the mechanism for the rights and legitimate interests protection, within process procedures relating to cases arising from administrative and other public relations, both for compliance with the law and judicial protection and for system of public administration.

Analysis of the problems of improving the practice of proceedings in cases arising from administrative and other public relations, as we believe, also has taken place before making any amendments from February 09, 2012 to the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 48 from 29.11.2007 "On the Practice of Court Proceedings on Contesting Normative Legal Acts in Full or in Part" [5].

Improvement of public authorities' activities is not possible in the absence of effective control over the activities of these bodies. Comprehensive and well-founded control is most effective and impartial in proceedings based on the principle of the equality and contentiousness of parties [1]. These instruments are most developed in the Anglo-Saxon legal family [9, 65-69; 10]. In Russian practice, this practice is somewhat less common.

However, in particular, amendments to the arbitration procedural, civil procedural and criminal procedural codes related to giving effect to the provisions on the review of applications for compensation for violation of the right to a trial within a reasonable time or the right to execute a court decision in a reasonable time are an example of the effect on the measures to streamline the activities of public authorities [2].

It is well known that the decision of the European Court of Human Rights on the case of "Burdov against Russia" [6] was the reason for the introduction of legal provisions on the review of applications for compensation for the violation of the right to a trial within a reasonable time or the right to execute a court decision within a reasonable time (in this case, the decision of a supranational body was the reason of changes aimed essentially at optimizing the work of public authorities). However, it is difficult to overestimate the importance of the decisions' effect of courts of general jurisdiction and arbitration courts in the field of their jurisdiction on the activities of public authorities.

It seems appropriate to mention the fact that the reference of consideration of applications for award of compensation for the violation of the right to a trial within a reasonable time and the right to execute a court decision within a reasonable time to cases arising from public legal relations is debatable.

We believe in reasonableness of the opinion about the need for development of criteria for attribution of such applications either to action proceedings, or to proceedings on cases arising out public relations, or to a particular type of proceedings. Currently, objectively there is no a unified position on the issue [7, 245-256]. Probably, this is largely due to the specifics of existing studies, each of which is implemented within of a specialized branch of law and does not always take into account the complex impact of existing changes on legal system.

Judicial control as a form of control over the activities of state and local governments largely contributes to the increasing of work effectiveness of the public administration system. In this context, we find reasonable the view of N. M. Chepurnova that "the purpose of judicial control is to ensure constitutionality and legality in the functioning of all institutes of political system, effectiveness of state and municipal government in all spheres of its implementation" [11, 4].

So, there is no doubt about the fact that judicial procedures to protect the rights and legitimate interests from illegal actions and orders of public authorities are an incentive to improve both the practice of public authorities' activity and the system of public authorities itself.

The mechanism of judicial contesting and appeal against decisions and actions of public authorities, in our opinion, is identical to the mechanism of control over the activities of bodies. This mechanism also contributes to improving of implementation of public authorities' activities and to reducing inappropriate decisions and actions.

Mechanism of judicial control over public authorities' activities best serves as a guarantor of fulfillment of the legislation of the Russian Federation by such

bodies and contributes to the improvement of the system of public administration.

Appears that statistics of the number of decisions on cases arising from administrative and other public legal relations, in which a public authority is an interested party, should be one of the criteria for evaluating the performance of a public authority. The number of court decisions on cases arising from administrative and other public legal relations made in favor of an applicant per capita in regulated areas of public relations can serve as a similar statistical indicator.

Currently, there are no such criteria in evaluating the effectiveness of the activities of public authorities [4]. It appears that the absence of such a criterion reduces the possibility of effective monitoring [8, 28] over the compliance with the legislation of the Russian Federation, what in the conditions of formation of legal state is undesirable and can have a negative impact on the entire system and structure of public authorities.

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ON THE ISSUE OF THE PASSPORT OF SCIENTIFIC SPECIALITY 12.00.14 – ADMINISTRATIVE LAW, ADMINISTRATIVE PROCESS

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The article analyses the passport of scientific specialty 12.00.14 developed from April 15, 2013. The author makes proposals for systematization of the specialty content in part of administrative process on the base of the logical sequence of performing managerial process implemented by public administration bodies, and its control by the judiciary.

Keywords: passport of scientific specialty, administrative process, administrative procedures, administrative jurisdiction, administrative justice.

A new passport of scientific specialty 12.00.14 – administrative law, administrative process, has not yet been adopted. This is not surprising with such little consensus of scientists on the foundations of institutions of administrative process.

Currently, a narrow range of experts is developing a draft Passport of a new scientific specialty 12.00.14.

As is known, paragraph 12 of the order of the RF Ministry of Education and Science No. 5 from 10.01.2012 "On Making Amendments to the List of Specialties of Scientists, Approved by the Ministry of Education and Science of the Russian Federation No. 59 from February 25, 2009" prescribes to replace the line:

12.00.14	Administrative law, financial law, information law	legal

by the line:

12.00.14	Administrative law, administrative process	legal

And if there are no serious remarks of legal scholars to the draft's direction "Administrative law", then a completely different situation emerges in respect of administrative process.

According to the Draft Passport of specialty 12.00.14 on April 15, 2013 offered the following content of the specialty in part of administrative process: theoretical and practical study of the subject and content of administrative-procedural law; study of administrative-procedural norms, administrative-procedural relations, features and principles of administrative-procedural activity and issues of administrative justice; study of problems of institution of administrative legal proceedings, development of the procedural aspects of administrative courts' activities; study of the issues of administrative and jurisdictional process; analysis and development of administrative proceedings; study and improvement of proceedings on administrative offences.

The draft passport was sent to all subject oriented higher educational institutions. The Institute of Legislation and Comparative Jurisprudence under the Government of the Russian Federation will accumulate all the suggestions, and then the draft will be discussed in the Expert Council of the State Commission for Academic Degrees and Titles. In mid May, 2013 all passports of juridical specialties will be discussed at the Meeting in Saratov (SGPA).

In the draft passport of specialty 12.00.14 propose "area of research "Administrative process":

1. subject and content of administrative-procedural law.
2. administrative-procedural norms.
3. administrative-procedural relations.
4. features and principles of administrative-procedural activity.
5. administrative justice.
6. principles and system of administrative legal proceedings.

7. procedural aspects of administrative legal proceedings.

8. comparative legal study of the issues of administrative justice and administrative legal proceedings.

9. administrative-jurisdictional process.

10. proceedings on resolving administrative-legal disputes .

11. proceedings on the adoption of legal acts of management.

12. proceedings on consideration of appeals of citizens and organizations.

13. proceedings on the cases of promotion and imposing of disciplinary sanctions.

14. registration proceedings.

15. license proceedings.

16. execution proceedings.

17. principles and general provisions of proceedings on administrative offences.

18. subjects of administrative jurisdiction.

19. participants of proceedings on administrative offences.

20. proof and evidence in cases on administrative offences.

21. measures to ensure proceedings on administrative offences.

22. stages of proceedings in cases on administrative offences".

On the basis of the analyzed scheme of the passport of scientific specialty "Administrative process" here is proposed, in our opinion, not quite logical sequence of consideration the institutes of the system of administrative process. The document initially for some reason says about "administrative-procedural activity", which should be based on such institutes of administrative process as administrative procedures, administrative jurisdiction and administrative justice ("administrative justice and administrative legal proceedings"), then –"administrative-jurisdictional process" (without specifying in what order it happens – in court or out of court), then – eight types of "administrative proceedings", some of which combine positive and law enforcement forms of enforcement (for example, proceedings on the review of appeals of citizens and organizations (and appeals can be either in the form of proposals and applications, and in the form of complaints); proceedings on the cases of promotion and imposing of disciplinary sanctions). And only one issue in the draft passport concerns the institute of administrative jurisdiction, which is formulated as "subjects of administrative jurisdiction". Judging by the location of this issue, it likely would go entirely on the subjects of proceedings in cases on administrative offences.

In our view, the passport of scientific specialty "Administrative process" requires another logic of formation on the basis of consistently performed actions in a management process: first, law-making, then positive enforcement within the framework of the institute of administrative procedures, and in the case of a dispute or in violation of law norms both in out of court (pre-trial) and in court procedure, including with the use of judicial control by the judiciary – application of law enforcement forms within the frameworks of appropriate institutes of administrative jurisdiction and administrative justice.

Based on the logic of the reasoning, the direction of "Administrative process" should include the following areas of research:

1. General characteristics of scientific specialty "Administrative process":

Subject and content of administrative process.

Administrative-procedural norms.

Administrative-procedural relations.

Principles of administrative law.

2. Administrative procedures:

Legal characteristic and types of administrative procedures.

Procedures of adoption normative legal acts.

Procedures of reviewing proposals and statements on the exercising of the rights and legitimate interests of citizens and organizations in the field of public administration.

Registration procedures.

Accounting procedures and reporting procedures.

Licensing and permitting procedures.

Procedures of technical regulation (certification and standardization).

Procedures for the conclusion of an administrative contract.

Procedures in the field of procurement of goods, works and services for ensuring public (state and municipal) needs.

Incentive procedures.

Procedure arising from the passage of public service.

Procedures for the introduction and exercising of special administrative-procedural regimes.

Other administrative procedures.

3. Administrative jurisdiction:

Subject of administrative jurisdiction.

Proceedings on the cases of administrative offences:

- *participants of proceedings on the cases of administrative offences;*
- *proof and evidences on the cases of administrative offences;*

- *measures to ensure proceedings on the cases of administrative offences; stages of proceedings on the cases of administrative offences.*

Proceedings on administrative-legal disputes and complaints.

Disciplinary proceedings.

Proceedings on exercising the institute of material responsibility.

Executive proceedings.

Other administrative and jurisdictional proceedings.

4. Administrative justice:

Principles and system of administrative legal proceedings.

Judicial administrative and jurisdictional process.

Comparative legal study of the issues of administrative justice and administrative legal proceedings.

5. Administrative-procedural activity:

Regulation of administrative-procedural activity.

Features of administrative-procedural activity in different spheres of public administration.

Principles and features of administrative-jurisdictional activity carried out extrajudicially.

Problems of exercising of a judicial administrative-jurisdictional process.

It seems that proposed by the author areas of study in the field of "Administrative process" as part of the new scientific specialty "12.00.14 – Administrative law; administrative process" will enable a more systematic and structured way to learning of current legal science of administrative law and process.

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TRANSPORTATION SECURITY AS A FACTOR OF ENSURING NATIONAL SECURITY OF THE RUSSIAN FEDERATION: THEORETICAL AND GEOPOLITICAL ASPECTS

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The lack of definition of "transportation security" in the Strategy of National Security of the Russian Federation is noted in the article and the author suggests its own definition. Here is emphasized strategic significance of Russian railways and importance of transport infrastructure to eliminate the threat to territorial unity of Russia and its turning into raw material appendage of the West.

Here are listed deficiencies in the transport sector, including the issue of legal regulation of ensuring transport security.

Keywords: transportation security, national security, threats to transportation security, system of public safety in transportation, transport infrastructure.

In accordance with the Federal Law No. 16-FL (as amended on 18.07.2011) "On Transport Safety" transport safety – this is condition of protection of transport infrastructure facilities and transport vehicles against acts of unlawful interference.

The objectives of ensuring transport safety are stable and safe operation of transport system, protection of the interests of an individual, society and the state in transport industry against acts of unlawful interference.

The main objectives of ensuring transport safety are: 1) normative legal regulation in the area of ensuring transport security [1; 2; 3; 4; 5; 6; 8]; 2) identification of threats of committing acts of unlawful interference [11]; 3) assessment of the vulnerability of transport infrastructure and vehicles [12]; 4) categorization

of objects of transport infrastructure and vehicles [18]; 5) development and implementation of requirements to ensure transport safety [15; 16; 17; 19]; 6) development and implementation of measures to ensure transport safety; 7) training of professionals in the area of ensuring transport safety; 8) implementation of the federal state control (supervision) in the field of ensuring transport safety [10; 20; 21]; 9) information, logistical and scientifically-technical support of transport safety.

It should be noted that the statutory definition of transport safety refers only to protection of vehicles against acts of unlawful interference, that is, from terrorist acts. But in practice, much more damage to life and health of citizens is inflicted in accident caused by a variety of technical defects of vehicles (failure of brake systems, engine, etc.), as well as the "human factor", i.e., any violation by drivers the rules of safe operation of vehicles. Let's remember the catastrophe of motor ship "Bulgaria" and other incidents. Hardly a day goes by without a report of MEDIA about just another vehicle accident with fatalities caused by fault of drivers or due to technical defects of vehicles.

Every day in transport accidents in Russia nearly 100 people die (predominantly in road transport) and few hundred are injured of varying severity. But for a year die up to 40 thousand people. MEDIA gives close attention to air crashes and, as yet, thankfully, rare, accidents on ships [33, 5-9].

Therefore, the leadership of the country has set out a list of effective measures that should ensure a positive effect in the near future [8; 9; 14]. At the same time, however, it should be noted that the increase in transport accidents has been brewing up for many years and is the result of inefficient public administration in the sector.

Transport safety issues have been the subject of research of many scientists [22; 24; 27; 31, 87]. In scientific studies, the term of "transport safety" is interpreted more broadly in comparison with its legislative definition. So, S. V. Protsenko [29, 40-43], qualifying transportation safety threats, offers their classification according to the sources of occurrence (threat of natural, techno- technological and social nature). Under common types of threats the author considers the physical deterioration and moral "fatigue" of vehicles, routes, the lack of training of the crew, transportation facilities personnel and etc.

B. N. Dudyshkin [25] speaks about the need of separation of ensuring transport security into two blocks of threat protection: ensuring of safe operation of transport and ensuring security against acts of unlawful interference in the objects of transport infrastructure and vehicles.

A. M. Skrynnik [30, 58-63] also concludes that the Federal Law No. 16-FL "nowadays recognizes transport safety only as anti-terrorist security, that is, social security". He correctly notes that for some reason the Law ignores two more types of threats of natural and man-made nature, and rightly says that "any component of the transport safety must not be ignored, that the state must provide a comprehensive (systemic) protection against all types of threats, and above all – by the method of legal regulation".

At the same time, the order of the Government of the Russian Federation No. 1285-o from 30.07.2010 "On the Establishment of a Comprehensive System to Ensure Public Safety in Transport" also defines other threats to transport safety in addition to the commission of acts of unlawful interference, namely the threat of natural and man-made nature, and provides for the adoption of security measures to ensure transport safety separately by the mode of transport.

In addition, you can support the suggestion of A. M. Skrynnik that "it is necessary to come to a common understanding of transport safety in relation to other modes of transport in order to avoid simultaneous use in normative legal acts of apparently similar concepts, such as "transport security", "safety of transport complex", "safety in maritime transport", "safety of maritime activity", "railway safety", etc.

S. M. Ziryanov and V. I. Kuznetsov define "transport security as a state of protection from the threats caused by: 1) the technical condition of vehicles and transport infrastructure; 2) the violations of traffic rules and operation of vehicles by drivers; 3) interference in the operation of transportation facilities from the outside. The first two types of security they call technical safety (statics) and safety of traffic and operation of vehicles, or technological safety (dynamics) respectively, the latter one– transport safety" [26, 5-12].

In our opinion, the terms of "transportation security" and "transport safety" are identical concepts. It is necessary to expand the content of the legislative notion of "transport safety" taking into account the above threats to its ensuring. Can be offered such variant of the notion of "transport safety" – it is a state of protection of transport infrastructure and vehicles from the threats posed by acts of unlawful interference; various technical defects (depreciation) of these facilities, as well as violations the rules of their safe operation.

RF Presidential Decree No. 537 from May 12, 2009 [7] approved the Strategy of national security of the Russian Federation up to 2020. It gives a new definition of national security, as a state of protection of an individual, society and the state from internal and external threats, which allows guaranteeing constitutional rights,

freedom, decent quality and standard of living of citizens, sovereignty, territorial integrity and sustainable development of the Russian Federation, defense and security of the state.

National defense, state and public security are named the main priorities of national security (p. 23). Other priorities of sustainable development include: improving the quality of life of Russian citizens through ensuring personal safety, as well as high standards of life support; economic growth, which is primarily achieved through the development of the national innovation system and investment in human capital; science, technology, education, health and culture, which are developed through strengthening the role of the state and improvement of public-private partnership; ecology of living systems and environmental management, the maintenance of which is achieved through a balanced consumption, the development of advanced technologies and expedient reproduction of natural-resource potential of the country; strategic stability and equal strategic partnership, which are strengthened on the basis of Russia's active participation in the development of the multipolar model of world order.

The absence of the term of "transport safety" in the text of the document astonishes. In three clauses, 31, 52 and 62, apply the term "transport infrastructure" in the context of the need of improvement and development of transport infrastructure to combat threats to national security.

After all, transport safety is primarily designed to satisfy state and public needs for transportation, sustainable and harmonious development of society, protection of its national interests and ensuring national security.

It should be noted that the significance of the transport safety for ensuring national security is shown in the Transport strategy of the Russian Federation for the period up to 2030 [13].

Transport plays an important role in the socio-economic development of the country. Transport system ensures the conditions for economic growth, increasing of the competitiveness of the national economy and quality of people's life. Development of regions, their economic growth, and preservation of the territorial integrity of Russia can be implemented only when there is a developed transport infrastructure.

Advantageous geographical position allows Russia to receive significant revenues from exports of transport services, including the implementation of transit traffic through its transport system.

An important role in the socio-economic development of the country is the safety and environmental friendliness of transport system.

The role of transport in the defense and national security of Russia is due to the increasing requirements of mobility of the Armed Forces of the Russian Federation. Safety of transport system determines the effective performance of emergency services, civil defense and special services, and thus determines the conditions of enhancing national security and reducing the risk of terrorism.

Strategic importance of Russian Railways, as well as the Northern Sea Route lays in their impact on the change in the political landscape of Eurasia due to the integration of states within the framework of various inter-state political associations, including Shanghai Cooperation Organization (SCO), the Euro-Asian Economic Community (EAEC), CIS, and on the elimination of threats to the territorial integrity of Russia and its transformation into a raw materials appendage of the West.

Yu. F. Goliusov rightly emphasizes the important "role of Central Asia, the territory of which in the past included the main transport and trade communications of the Eurasian continent, including the Silk Road, which supported continual exchange of goods, knowledge, ideas, and spiritual values".

We stand in solidarity with his opinion that the "revival of "Silk Road" as a kind of symbol of readiness for peaceful cooperation and economic ties between the people, the establishment within the CIS of the EAEC in the interests of economic integration of participating countries: Belarus, Kazakhstan, Kyrgyzstan, Tajikistan and Russia, the formation on the initiative of Kazakhstan the Central Asian Commonwealth (CAC), which includes Kyrgyzstan, Kazakhstan, Uzbekistan and Tajikistan, the formation of the SCO as an international structure are designed to address political and economic issues, a significant role of which lies in the transport integration" [23, 17].

However, the transport complex has serious shortcomings. First, has not been finished the formation of a backbone network of federal highways linking all the regions of Russia, particularly in the regions of the Far North, the Republic of Sakha (Yakutia), Magadan region, Chukotka autonomous district, etc.

Second, the federal highways have exhausted their capacity.

Thirdly, many regions of the Russian Federation have almost completely lost both their network of local airlines, and airports of regional airlines. Reduction of local transportation, the closure of airlines, and the collapse of air transport infrastructure.

There is an enormous lag of infrastructure and airports' equipment from the level of development of international civil aviation.

Fourth, the development of Russian ports and related transport infrastructure is uneven. Considerable differences have been accumulated in the levels of

technological effectiveness and capitalization of port hubs. There is a shortage of port facilities oriented to transshipment of import cargoes (containers and rolling cargoes), which is caused by the faster growth, in recent years, of port facilities oriented to transshipment of export cargoes.

Fifth, there is a technical and technological backwardness of the Russian transport system compared to developed countries. It is not ready for widespread use of modern technologies, especially of containers. The growing demand for freight transportation is being hampered by poor transport and logistics system of the country. Freight forwarding service of population and economy remains at low level. The country does not have high-speed railway service.

The innovative component in the development of the parks of rolling stock and technical means of transport, especially in the implementation of internal transportation, remains at a low level. There is also a significant backlog in respect of environmental parameters of transport.

Sixth, urban public transport, including its modern high-speed types, which could significantly reduce the problem of transport development of big cities, does not receive proper development.

Seventh, the tendency of aging of fixed assets and their inefficient use retains in all sectors of the transport complex. Many technical means of transport have come to a critical level. A considerable part of them is operated beyond the normative period of mechanical life, the other is coming closer to that date. As a consequence, the safety performance and economic efficiency of transport are significantly getting worse [13].

From the noted can be concluded that currently there is an imbalance in the development of a unified transport system of Russia. Transport Strategy of the RF defines particular measures to eliminate this situation

There are significant shortcomings in the legal regulation of ensuring transport safety. Dwell only on some of them. So, S. V. Trofimov correctly notes that there is no such concept as "calendar period of operational life" of a river ship in "Code of Inland Water Transport" from March 07, 2001 No. 24-FL (as amended on 23.04.2012). And the existing Rules of operation of inland water vessels actually allow exploiting them up to the full depreciation. Document sufficient to certify technical suitability of a vessel for operation is a certificate of annual technical inspection. By the way, the same rules, by default, act regarding the exploitation of cars" [33].

There are also shortcomings in the legal regulation of issues of compulsory insurance of life and health of passengers. So, article 98 "Life and Health Insurance

of Passengers" has been deleted from the Code of Inland Water Transport since January 01, 2013. Also there is no such article in the "Charter of Road Transport and Urban Electric Surface Transport" from November 08, 2007 No. 259-FL (as amended on 28.07.2012).

Nowadays, only the Air Code of the Russian Federation from March 19, 1997 No. 60-FL (as amended on 28.07.2012) provides a more or less acceptable level of insurance benefits (up to 2 million rubles) of the carrier for damage to life or health inflicted during air transportation of a passenger. Note that this amount is significantly less than the amount of insurance benefits for damage inflicted in air crashes in most countries of the world.

Thus, in all transport charters and codes should be made appropriate additions establishing obligations of carriers to enter into contracts of compulsory insurance of life, health and property of passengers by analogy with the Air Code of the Russian Federation.

Currently, in accordance with the provisions of the Federal Law No. 14-FL from December 08, 1998 "On Limited Liability Companies" (as amended on 29.12.2012), one can register a company carrying out transportation at the declared amount of authorized capital just 10000 RUR. In that connection it is necessary to legislatively increase its amount for carrier companies, bearing in mind that transportation activity involves the use of sources of increased danger.

Yu. V. Stepanenko correctly noted that article 5 of the Federal Law "On Transport Safety" also qualifies bodies of internal affairs as subjects performing vulnerability assessment of transport infrastructure objects and vehicles against acts of unlawful interference in their activities. At present, however, there are no such organizations in the MIA RF [32, 39].

Federal Law No. 195-FL from 27.07.2010 introduced article 11.15.1, which provided for responsibility for failure to comply with requirements of ensuring transport safety of transport infrastructure objects and vehicles, into the Code on Administrative Offences of the RF (CAO RF).

The article establishes responsibility for two compositions of an administrative offence, one of which is the main (part 1) and the second is a composition with aggravating circumstances (part 2). The law considers repetition of an offence as a circumstance aggravating administrative responsibility.

The composition of an offence embodied in article 11.15.1 is general and applies to all modes of transport. At the same time the CAO RF also contains special compositions of offenses that provide for responsibility for non-compliance with requirements of ensuring safe operation of certain modes of transport (for example,

articles 11.3.1, 11.6, 11.10, 11.16, etc.). N. G. Salishcheva rightly notes that "in the competition of general and special norms of the CAO RF, responsibility should occur according to a norm containing special composition of an administrative offence" [28, 234].

Thus, strengthening of the national security of the Russian Federation is interrelated and interdependent with transport safety.

Significance of transport safety should be considered as a feature of the transport system of the RF, which allows dynamic development, integration into world transport space, realization of transit potential of the country and becoming a leading world power.

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Voronov A. M.

ADMINISTRATIVE-LEGAL REGIME OF CUSTOMS BODIES' ACTIVITY IN ENSURING PUBLIC SECURITY

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Here is noted a feature of public service in customs bodies, which lies in division of its officials into employees of public civil service and employees exercising functions of law enforcement service.

The author argues that administrative-legal regime of customs authorities' activity in the field of ensuring public security of the Russian Federation is a comprehensive legal institute of administrative law, and rightly is one of the most important instruments of state policy aimed at ensuring public security and protection of both public and private interests of the state in the sphere of customs affairs.

The main aim of administrative-legal regime of customs bodies' activity is postulated in the article – protection of the internal market of the Russian Federation from adverse foreign economic factors, internal and external threats, detection and suppression of illegal activities of transnational organized crime, as well as other illicit activities of natural and legal persons exercised during moving goods and transport vehicles across the customs border of the State.

Keywords: public security, customs bodies, administrative-legal regime of customs bodies' activity, customs regime, customs administration.

Should be noted that each direction of administrative activity of public administrations, including customs authorities in the field of ensuring public safety, must be organized within the framework of this or that legal regime, which would define their competence.

Administrative-legal regime of the customs bodies' activity (hereinafter customs regime) is the most effective means of legal regulation of social relations arising upon the movement of goods and vehicles across a customs border.

At present, the formation of the Customs Union in the framework of the Common Economic Space and the accession of the Russian Federation to the World Trade Organization define the basic aims, objectives and directions of development of customs authorities of the RF. As a result of active upgrade of customs legislation the impact of customs regulation, which is an element of state regulation of foreign trade activities, on the process of integration into the world economy and international trading system significantly increases.

As rightly pointed out by O. V. Grechkina, the whole system of administrative management of customs regulation is subjected to reform. This are organizational-structural, HR, and rule making components of the system. At the same time, rapidly changing economic environment imposes increasingly higher requirements for customs administration, which is designed to ensure the legality of legal relations arising between the participants of foreign economic activity and the state in the implementation and protection of the rights, freedoms and legitimate interests of persons during the movement of goods and vehicles across a customs border [9].

Customs Union of Russia, Belarus and Kazakhstan was established on December 19, 2009 in Alma-Ata (Kazakhstan), where the leaders of the three countries signed a Joint statement on its formation. The first phase of the Customs Union activity started January 01, 2010, from the introduction of the Common Customs Tariff [1]. Common Customs Tariff of the Customs Union of the Republic of Belarus, Republic of Kazakhstan and the Russian Federation (CCT CU) – a corpus of rates for import customs duties applied to goods imported into the common customs territory of the Customs Union from third countries classified in accordance with the uniform Commodity Nomenclature of Foreign Economic Activity of the Customs Union (CN FEA CU).

It should be noted that the supreme body of the Customs Union is Interstate Councils at the level of Heads of States and Heads of Governments. The unified constantly regulating body is the Commission of the Customs Union.

The formation of the Customs Union provides for creation of a single customs territory, within which do not apply customs duties and restrictions of economic

nature, with the exception of special protective, antidumping and countervailing measures. In the framework of the Customs Union apply a Common Customs Tariff and other unified measures of regulation trade with third countries.

Since the first of July 2010 the Customs Code of the Customs Union of EAEC has entered into force. For the Member States of the Customs Union the legislation on Customs Affairs has transformed into a complex normative system based on international legal acts of EAEC (customs code, international agreements and decisions of the Commission of the Customs Union). Solution of the tasks of control over customs affairs in the Russian Federation significantly has shifted to the international-legal level.

At the same time the domestic customs legislation and its regime organization have become more complicated after replacing in 2003 the Customs Code of the Russian Federation by the Federal Law No. 311-FL from 27.11.2010 "On Customs Regulation in the Russian Federation" [4]. Further to its development have adopted Federal Laws of the Russian Federation: "On Russia's Accession to the International Convention on Simplification and Harmonization of Customs Procedures from May 18, 1973 as Amended by the Protocol on Making Amendments to the International Convention on Simplification and Harmonization of Customs Procedures from June 26, 1999" [3], "On Ratification of the Agreement on Legal Assistance and Cooperation of Customs Authorities of the Member States of the Customs Union on Criminal Cases and Cases on Administrative Offenses, "On Ratification of the Agreement on the Procedure of Movement of Goods for Personal Use by Individuals through the Customs Border of the Customs Union and Committing of Customs Operations Related to their Clearance", Federal Law No. 406-FL from December 06, 2011 "On Amending the Federal Law "On Currency Regulation and Currency Control" in the Part of Simplification of Currency Control" [5].

Also December 10, 2011 the President of the Russian Federation signed a law aimed at the unification of the Russian legislation and the legislation of the Customs Union within the framework of the EAEC, which amends 24 legislative act, including the Air Code of the Russian Federation, the Code on Administrative Offences of the Russian Federation, the Law of the Russian Federation "On Customs Tariff", the Federal Law "On Banks and Banking Activity", "On Insolvency (Bankruptcy)" and several others.

In addition, the law also makes amendments to the legislation of the Russian Federation on special economic zones in order to bring it into conformity with the Agreement between the Government of the Russian Federation, the Government of the Republic of Belarus and the Government of the Republic of Kazakhstan from

June 18, 2010 "On the issues of free (special, particular) economic zones in the customs territory of the Customs Union and the customs procedure of free customs zone".

At that, it is appropriate to turn to the background of the issue. We should be aware that a fundamental change of customs administration could not be possible without the adoption of a new edition of the Customs Code. RF Customs Code of 1993 [2] was being developed in the liberalization of foreign trade, but before the adoption of the Constitution, Civil Code, Tax Code and Code on Administrative Offences of the Russian Federation, it was not suited to the standards of the WTO [2]. With the introduction on the 1st of January 2004 the new Customs Code Customs Service switched to work under international standards and rules based on the system of analysis and management of risks, with maximum use of modern customs and information technologies. Now, at the fore is not a fiscal (not removed from customs service) task to ensure the filling of budget income, but the task of promoting the development of foreign trade. RF Customs Code of 2004 contained a significant number of innovations to speed up and simplify customs procedures, and in this part provided the change and development of the system of customs administration.

However, the optimization of customs bodies' functions demanded the rejection of excessive customs administration and comprehensive measures of its improving on the base of modernization of the information systems of FCS of Russia, technical re-equipment of the customs authorities, creation of a modern customs infrastructure. Initially, these measures were defined by the Target program approved by the Order of the FCS of Russia No. 403 from 20.12.2004. However, the implementation of the Program was prematurely terminated due to the start of implementation the Concept of development of customs authorities approved by the RF Government decree No. 2225-r from 14.12.2005.

The concept contained the analysis of the achieved results of the customs authorities' activities, emphasized unsolved problems leading to low efficiency of customs administration. The concept defined the task of improving customs administration on the basis of formation new approaches that involve ensuring of high efficiency of customs administration with external simplicity and faster clearance of goods moved through the customs border of the Russian Federation.

Resolving the tasks of administrative reform on reforming of customs authorities' activity facilitated effective implementation of the Concept events. So, RF Presidential Decree No. 473 from 11.05.2006 defined that the Government of the Russian Federation must carry out the leadership of the Russian FCS, and RF

Government Decree No. 459 from 26.07.2006 approved new Provision on the Federal Customs Service [6].

Also, RF Government Decree No. 1662-p from 17.11.2008 approved the Strategy of development of the Federal Customs Service up to 2020 [8], which provided that the control system of customs administration of the Customs Union should include the Commission of the Customs Union, the Coordination Council of the heads of customs services of the Customs Union and national systems of customs administration.

The strategic goal of the Federal Customs Service development is the development up to a level sufficient to reliable ensuring of Russia's economic development in the field of customs, qualitative customs regulation in order to create favorable conditions for attracting investments into the Russian economy, full flow of revenues to the federal budget, necessary protection of domestic commodity producers, objects of intellectual property, maximum promotion to foreign trade, and effective combating against administrative offenses and crimes.

Further in the context of the Strategy for Federal Customs Service development, a "roadmap" was adopted by the RF Government Order No. 1125-o from 29.06.2012 "On Approval of the Plan (roadmap) of Events "Improvement of Customs Administration" [7].

The "roadmap" is intended to simplify the procedure for moving goods and vehicles across the customs border of the Customs Union during their importation into the Russian Federation and export from the Russian Federation.

The goals of the "roadmap" are:

- reducing the number of documents required for customs operations and customs procedures during import of goods and vehicles to the Russian Federation and their export from the Russian Federation;
- reducing the timeframe for preparing and receipt of the documents required to complete the procedures for export and import of goods;
- reducing the timeframe of going through all the procedures associated with the importation of goods and vehicles to the Russian Federation and their export from the Russian Federation;
- reduction of the shadow turnover of imported goods in the Russian market;
- introduction the technologies of customs declaring and clearance of goods that can reduce to a minimum the time of passing administrative procedures in connection with the importation of goods and vehicles to the Russian Federation and their export from the Russian Federation.

Article 29 "General Provisions on Customs Procedures" has become a significant innovation of the Customs Code of the Customs Union (CC CU). So, for the purposes of customs regulation of goods that are transported across the customs border of the Customs Union, article 202 of the Code establishes the types of customs procedures (according to article 202 CC CU, there are 17 types of customs procedures). Also, in accordance with article 4 CC CU, a change that takes place in the customs terminology is the fact that the notion of "customs regime" has been replaced by "customs procedure".

So, in article 4 TC CU "Key Terms Used in this Code", customs procedure is interpreted as a set of norms defining for customs purposes the requirements and conditions of use and (or) disposal of goods in the customs territory of the Customs Union and beyond.

Seems that this interpretation is more correct than the previous one that existed in paragraph 12 article 18 of the Customs Code of the RF "customs regime is a set of provisions governing the status of the goods and vehicles moved across the customs border of the Russian Federation, for customs purposes". "Status" (Lat. status – state, position), i.e., an abstract multi-value term that in general sense denotes the totality of stable values of the parameters of an object or subject.

The term of "procedure" is defined as an interrelated sequence of actions, i.e., normatively-regulated order of activities aimed at achieving customs objectives. Thus, customs regime is a complex customs procedures in respect of goods and vehicles moved across customs border.

It is appropriate to note that the uniqueness of activity areas, which are identified by the State for the customs authorities [6], stipulated the feature of public service in these bodies, which is a separation of customs officials to the public civil service officials and employees exercising the functions of law enforcement service. The difference between their administrative-legal statuses is due to the specificity of public civil service and law enforcement service in the customs authorities of the Russian Federation, which has both fiscal and law enforcement nature.

Thus, article 6 CC CU defines their basic tasks, including:

- promoting to the unified trade policy of the Customs Union;
- enforcement of the customs legislation of the Customs Union and another legislation of the state-members of the Customs Union, the control over execution of which is the competence of customs authorities;
- fulfillment of customs operations and carrying out customs control, including in the framework of mutual administrative assistance;

- collection of customs duties, as well as special, anti-dumping and countervailing duties; control of the correctness of their calculation and timely payment; adoption of measures for their compulsory exaction within their competence;

- ensuring within their competence the compliance with the measures of customs and tariff regulation, prohibitions and restrictions regarding goods moved across the customs border.

In addition to the above, there are tasks in the researched by us area, namely:

- ensuring within their competence the compliance with the rights and legitimate interests of persons in the area of customs regulation and creation of conditions for accelerating the movement of goods across the customs border;

- ensuring within their competence the measures to protect national security of the Member States of the Customs Union, life and health of people, fauna and flora, environment, and, in accordance with international agreement of the Member States of the Customs Union, the measures to counter the legalization (laundering) of proceeds of crime and financing of terrorism in the control of movement across the customs border of currencies of the Member States of the Customs Union, securities and (or) currency values, traveler's checks;

- detection, prevention and suppression of administrative offences and crimes in accordance with the legislations of the Member States of the Customs Union;

- protection within their competence of intellectual property rights in the customs territory of the Customs Union;

It should also be noted that according to article 7 CC CU, customs authorities of the Member States of the Customs Union are bodies of inquiry in cases of smuggling, evasion of customs duties and other crimes, the proceedings on which, in accordance with the legislations of the Member States of the Customs Union, are assigned to the jurisdiction of customs authorities;

- carry out operational-investigative activities in order to reveal individuals who are preparing, committing or have committed a wrongful act, which is recognized by the legislation of these states as a crime, the proceedings on which are assigned to the jurisdiction of customs authorities, execution of requests of international customs organizations, customs and other competent authorities of foreign states in accordance with international treaties;

- conduct an administrative trial (carry out proceedings) on cases of administrative offenses and bring persons to administrative responsibility in accordance with the legislations of the Member States of the Customs Union.

Based on the foregoing, it is appropriate to draw some conclusions.

Administrative and legal regime of the customs authorities' activity in the field of ensuring public safety of the Russian Federation is a complex legal institute of administrative law that rightfully acts as one of the most important instruments of state policy aimed at ensuring public safety and protection of both public and private interests of the state in the field of customs affairs.

The procedure of regulation of social relations by the norms of law, which form the administrative-legal regime of providing customs affairs, is based on the imperative method of impact that is carried out mainly on the basis of centralized management, since it is the state through its customs authorities and officials establishes a special procedure for the implementation of certain activities in the field of customs affairs, as well as provides and confirms the right for their implementation; establishes and implements the customs and other types of state supervision over the movement of goods and vehicles across the customs border; enshrines the possibility of termination of various activities in the field of customs affairs under established grounds; defines measures of legal responsibility for non-performing of established regime regulations.

In our view, administrative and legal regime of the customs authorities' activities in the area of ensuring public safety should be understood as a totality of legal norms and organizational measures, which in order to protect economic and other state interests establish and provide the procedure of movement of goods and vehicles across the customs border, as well as rules of conduct of persons in the field of customs affairs, in the best interest of ensuring security of the Russian Federation.

The considered administrative-legal regime accompanies administrative activities of customs authorities and their officials in the interaction with physical and legal entities in their implementation of functional responsibilities in the field of customs affairs. This is reflected in the protection of the domestic market of the Russian Federation from adverse external economic factors, internal and external threats, and helps to reveal and suppress illegal activity of structures of transnational organized crime and other illegal activities of individuals and legal entities performed in moving of goods and vehicles across the customs border of the state.

The latter aspect is particularly important for the agencies of the Federal Customs Service, who use possibilities of the considered regime at the direction of combating against smuggling and ensuring economic security of the Russian Federation.

The essence of the administrative-legal regime of customs authorities' activities in the field of ensuring public safety is that the customs authorities, endowed

with relevant competence to implement this regime, control the order of movement of goods and vehicles across the customs border of the Russian Federation, the behavior of individuals crossing the customs border of the state, as well as identify items subject to control by other federal bodies of executive power.

The purpose of the administrative-legal regime of customs authorities' activities in the field of ensuring public safety lays in the appropriate legal regulation and maintenance of the desired development of legal relations arising in the process of protecting economic interests of the country and ensuring security of the Russian Federation in the sphere of foreign economic activity during moving of goods and vehicles across the customs border of the Russian Federation, and in ensuring proper exercising of rights of both individuals and legal entities in the sphere under protection.

Also, customs authorities in implementing legal measures of security ensure functioning of customs regimes, assist other public authorities in providing administrative-legal regime of entry into the Russian Federation and exit from it, state border regime and regime of border crossing points, licensing system and regime of security of traffic in narcotic drugs, as well as carry out other measures of general preventive nature.

Administrative-legal regime of customs authorities' activities in the field of ensuring public safety is not limited to performing just law enforcement functions. Activities on ensuring public safety by customs authorities are also reflected in the levying of customs duties, implementing of customs clearance, holding currency and customs control, implementation of operational-search and other activities

The main purpose of this regime is to provide reliable legal and organizational barriers that might prevent and promptly suppress illegal activity of transnational organized crime and other illegal activities in the sphere of moving goods and vehicles across the customs border of the Customs Union.

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CASELOAD OF A JUDGE AS THE FACTOR OF JUSTICE QUALITY

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In this work the author analyses the statistics of the number of cases heard by the courts of general jurisdiction in the Omsk and Sverdlovsk regions. The causes of a high caseload on the judges of district (city) courts are explored in the article. Here are suggested the ways to optimize caseload on judges. The author highlights one of the reasons for the significant increase in applications to courts – the absence of voluntary compliance with the law.

Keywords: justice, caseload of judges, judicial reform, pre-trial settlement.

The problem of the heavy workload of judges in recent years has become even more acute. Excessive workload on judges is directly related to the quality of considered cases. Any judge who hears cases at the limit of it physical and psychological capabilities is more at risk to make mistakes of procedural or material nature. Currently, society and judicial circles actively discuss the workload of judges. More broadly, this problem is important not only for judges and court staff, but also for those who come to courts to find a rightful judgment. Excessive workload leads to the fact that courts have turned into a sort of machine for continuous operations, whose main task is to consider the largest possible number of cases. This, in turn, has a negative impact on the realization of the main tasks of court proceedings – the correct and timely considering of cases in order to protect violated rights and freedoms of citizens, society and the state.

Having analyzed the statistics of cases considered by courts of general jurisdiction in the Omsk region, you can see the following figures. So, if in 2008 district courts considered 30722 civil cases, then in 2012 already 68769 cases [4].

Although the total number of criminal and administrative cases incoming in the district courts has decreased, the workload on judges continues to be very high. Chairman of the Omsk Regional Court V. A. Yarkovoi at the conference on the results of regional courts' work for 2012 also touched upon the theme of high and uneven workload among the judges of district courts of Omsk City and judges working in rural areas [3].

It's no secret that the performance of judges is based solely on a subjective factor. That will further obviously increase the workload of everyone. Human body gets tired from prolonged overvoltage; its efficiency reduces, as a result a judge, like any other person, is not able to work efficiently.

The Institute for the Rule of Law at the European University in St. Petersburg in 2012 conducted a sociological study on "Russian judges as a professional group: a sociological study". According to the results it became clear that judges, in contrast to many other officials, have to constantly linger at work or take work home. Half of the judges almost every day work overtime. Another third does so several times a week. And it is only less than 20% of the judges are faced with the need to work at home or linger at work once a week and less.

Most often after job judges are involved in the preparation of reasons for judgment and the check of court records (77.4% of judges). At about with the same frequency they study normative acts or work with the materials of cases (43.7% and 43.4% respectively) [5].

And for comparison, it is appropriate to give details of another sociological study. So, 61% of surveyed officials say that never take work home [1]. Compared to other public servants, judges are one of the most work loaded groups. The reason for this is that the amount of load of judges is determined not by departmental instructions, but by federal law. A judge cannot regulate the number of incoming cases, but the duty to consider all cases taken into proceedings is strictly defined by procedural law. It turns out that the judge is in a situation where deadlines can be adhered only by reducing the quality of work over a separate case or working overtime.

The main workload of judges is associated with administration of justice – the study of case materials, conducting proceedings and drafting legal acts. In the second place on the load is activity associated with increasing of professional skills and refinement of legal norms. The third place is taken by various administrative and analytical workloads (meetings, prevention of crimes and offences, generalization of judicial practice). Accordingly, the task of reducing the workload should be solved by optimizing the basic judicial actions.

There are offered a variety of ways to optimize the workload on judges throughout the period of judicial reform. At the VIII Congress of Judges the Chairman of the Supreme Court of the Russian Federation V. M. Lebedev has not only outlined the problem, but called its solution. In particular, it was suggested to disclose in a court session only operative part of verdict, because in accordance with applicable legislation the texts of court decisions are published on the websites of courts. It was suggested to exclude the principle of continuity of a trial from proceedings in civil causes. The Supreme Court has prepared a draft law on reducing the categories of cases on administrative offences that should be considered in court. Its adoption assumes reducing of consideration of administrative offences by courts up to 1 million per year. The widespread introduction of audio and video-recording of court proceedings will not only reduce the workload on judges, but also on court staff.

We would like to reveal our vision of the problem of high workload on judges. One reason for the significant increase in applications to the courts is the lack of voluntary compliance with the law. Approximately one-third of judgments is imposed by the courts for obvious legal situations where plaintiff's claims are clear from the wording of the law. The defendants must satisfy such claims at the pre-trial stage, without court proceedings. However, the plaintiffs go to court, spending their time and nerves, while creating an additional workload on judges. At that, there is no risk for a person who does not comply with the requirements of the law, in the event of transfer a dispute to court. The defendant performs actions prescribed by law, but by a court decision.

Solution of this issue is seen in the broadening for citizens the opportunities of pre-trial settlement of disputes. It is necessary to enter a law norm that would enshrine defendant's obligation to comply with lawful and reasonable demands of plaintiff. If the defendant refuses to do this at the pre-trial stage, the plaintiff basing on the results of court trial may demand compensation for moral damage in the case of complete satisfaction of its claims by court. And also provided that the plaintiff has used its right of pre-trial settlement of dispute and the other party has ignored this stage.

At the meeting of judges in the Sverdlovsk Regional Court on the results of courts' work for 2012 it was noted that most often in the courts considered housing disputes, and in most cases these were cases of recovery of payment for dwelling place and utility payments [4]. Reduction of the workload on judges would be facilitated by the introduction of mandatory procedure of pre-trial settlement for this category of disputes, as well as for the claims of tax authorities to citizens on

exaction of tax arrears. Housing and utility, tax and other bodies should be obliged before filing a claim in court to provide evidence indicating that the plaintiff has made necessary and sufficient measures for pre-trial settlement of the dispute, as well as confirmation of the absence of such settlement through the fault of the defendant. In judicial practice, there are many cases in which a defendant does not know anything about its debt to a housing and utility organization or tax authority. After receiving a warrant to appear, it immediately repays the detected amount of debt or submits a payment receipt. Establishment of mandatory pre-trial settlement of such disputes will relieve courts from frivolous lawsuits.

Amendments to the Code on Administrative Offences of the RF on the rules of jurisdiction of cases to judges might minimize the workload on judges. In the jurisdiction of courts should be retained only those administrative compositions of offences, the sanctions of which provide for such penalties as administrative detention, administrative deportation, denial of a special right and confiscation of instruments and objects of an offense. Other administrative offences could be considered by the relevant state supervisory and control bodies.

Need to pay attention to the fact that in different subject of the Russian Federation, and often in different courts of one subject the workloads on judges are different. The same situation also exists in the judicial districts of justices of peace. The work of a separate justice of peace recalls a "conveyor". In other, often neighboring districts, the load on judges is small. And judicial leadership of a subject is actually deprived of an opportunity to reallocate territories of judicial districts.

The main reason of uneven workload is laid down in the very law "On Justices of Peace", namely the population in one district should be between 15 to 23 thousand people. In practice, the population of a RF subject is divided into approximately 20 thousand people and in such a way the number of judicial districts is determined. At that, the peculiarities of administrative-territorial system are not taken into account. Socio-economic situation in a particular territory is also not taken into account. For example, in the territories where there are large commercial and industrial complexes the number of claims increases dramatically and therefore increases the workload. Judicial practice shows that determination of the number of judicial districts only on the basis of population is not quite correct.

It would be correct to give subjects the opportunity to control the number of justices of peace in judicial districts, taking into account current load. And, also, to allow the subjects in some cases to increase the estimated population for one justice of peace up to 30,000 people.

One of the negative aspects, also affecting the workload of justices of peace, is the question of filling vacant position of a justice of peace. So, if in a judicial district a justice of peace has not been appointed, the doubled workload is automatically falls on the judges of the nearest judicial districts. A judicial district may stay long without a newly appointed justice of peace, until the end of personnel audit procedure.

Therefore, an effective value would have an amendment to the Federal Law "On the Status of Judges", on the obligation of the judicial qualifications board of a subject to declare vacancy for the position of a justice of peace, whose term of office expires, in advance, no later than 9 months. At that, an announcement about the vacancy of a justice of peace would be better to publish not only in the print edition of the subject, but also in the local media in the territory of a judicial district. And, also, on the official court website, which provides information about the judicial district to inform a wider audience.

V. M. Lebedev at the VIII Congress of Judges said "It is still relevant to establish the norms of workload for judges and court personnel on the basis of evidence-based criteria". Undoubtedly, the method of determining the workload on a judge has to improve the quality and timing of administration of justice in the state, as well as help to take care of the health of judges.

In 1996, the Russian Ministry of Labor conducted studies on the load of judges and courts' staff. On the results of research were drawn up standards, in which had been laid down the time spent on each category of cases [2]. On average, a district judge for the consideration of one criminal case with one accused (if there are two or more accused then increasing correction factors are used) is given 14 hours, to consider one civil case – 7 h 40 min. It turns out that with the 8-hour work day it is possible to consider just 2.8 criminal cases or 5 civil cases per week. Obviously, the actual workload as shown above in statistics exceeds standards several times

In 2008, the Research Institute of Labor and Social Security of the Federal Agency for Health and Social Development (Federal State Unitary Enterprise "Research Institute of Labor and Social Security" of Roszdrav, FGUP "NII TSS" Roszdrav *in Russian*) developed standards for workload of judges and standards for the number of employees in the federal courts of general jurisdiction. Currently, the work for the development of the draft law "On the Standards for the Workload of the Judges of Arbitration Courts, Courts of General Jurisdiction and Court Personnel", according to the Decision of the Council of Judges of the RF No. 252 from 27.01.2011, is continuing.

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Yuritsin A. E.

ACTUAL ISSUES OF THE CONTENT AND PECULIARITIES OF REALIZATION THE STRATEGY OF STATE ANTI-DRUG POLICY OF THE RUSSIAN FEDERATION UP TO 2020

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Basing on the analysis of the Strategy of state anti-drug policy here are noted the following features: Russia's active participation in international cooperation in the fight against drug trafficking; formation of national anti-drug legislation on the fight against drug trafficking; normative consolidation of expanding the range of subjects of mandatory testing to identify people who use drugs; reducing the demand for drugs in the complex of measures taken by the State; improving of the organizational support of anti-drug activities; strengthening of legal responsibility for deeds with narcotic drugs and psychotropic substances.

Here is stated about the urgent need for the revival the system of compulsory treatment of drug addicts admitting breach of the current legislation (criminal, administrative-tort) who do not want to be treated on a voluntary basis.

Keywords: drug addiction, drug abuse situation, combating drug addiction, state anti-drug policy, strategy of state anti-drug policy.

In today›s world, the number of drug users is between 155 and 250 million people. This is from 3.5% to 5.7% of the world›s population aged 15 to 64 years [3, 12]. Processes of active increase in drug use also have not spared the Russian Federation. According to A. V. Fedorov, "drug addiction has become a disaster on a nationwide scale, global problem, the solution of which can define the future of our country, its national security" [9, 43].

Today the spread of drug addiction and associated with it drug-related crime is a factor of undermining the demographic, socio-economic and defense potential of Russia. The number of addicts and death rate from drug addiction continues to grow.

At a meeting of the Russian Security Council dedicated to improving state policy in the fight against illegal drug trafficking, Dmitry Medvedev noted that "the rejuvenation of drug consumers – it is a real threat to the security of our country, the most serious challenge to the health of the nation, our demographics, which is already extremely difficult and, in general, to the morale of our society" [4].

The drug situation in Russia today is predetermined mainly by significant heroin pressure from Afghanistan. According to UN statistics, since 2001, opiates production in Afghanistan has increased more than 40 times and is up to 8 thousand tons per year. Approximately 92% of the world's heroin is produced from poppies grown in Afghanistan [5]. In the north of this state, near the borders of Russia, as well as in the territory of Central Asia states large stocks of opiates are being stored, which according to the UN reach 12 thousand tons. This amount of drugs is enough for daily use for 100 years to the number of drug addicts equal to today's population of Russia [6].

By virtue of the above, the task of combating against drug addiction in Russia has become a global political issue, which requires the state establishing clear goals and solving objectives for the implementation of measures that are relevant to the threat posed.

According to the National Security Strategy of the Russian Federation up to 2020 [13], approved by Presidential Decree No. 537 from May 12, 2009, the phenomenon of narcomania is a national security threat in the area of state and public security.

Federal Law No. 3-FL from January 08, 1998 (as amended from 01.03.2012, No. 18-FL) "On Narcotic Drugs and Psychotropic Substances" [11] provides for that state policy in the sphere of drug trafficking, psychotropic substances and their precursors is aimed at establishing a strict control of their turnover, gradual

reduction in the number of drug addicts, and reducing the number of offenses related to their illegal trafficking.

Decree of the President of Russia No. 690 from June 09, 2010 "On Approval of the Strategy of State Anti-Drug Policy of the Russian Federation up to 2020" (as amended from 28.09.2011, RF Presidential Decree No. 1255) [14] defines state anti-drug policy as a system of strategic priorities and measures, as well as activities of federal bodies of state power, State Anti-Drug Committee, public authorities of the subjects of the Russian Federation, anti-drug commissions in the subjects of the Russian Federation and local self-government bodies aimed at the prevention, revealing and suppression of illicit trafficking of drugs and their precursors, prevention of non-medical drug use, treatment and rehabilitation of drug addicts.

The Strategy of State Anti-Drug Policy represents officially adopted main directions of state policy defining the measures, organization and coordination of the activities of the federal bodies of state power, public authorities of the subjects of the Russian Federation and local self-government bodies in the area of trafficking in drugs and their precursors and combating their illicit trafficking. It is noteworthy that the adoption of the Strategy was preceded by its public and expert discussions.

Structurally, the document consists of six sections with 50 paragraphs. The main goal of the Strategy is the substantial reduction (by 2020) of illicit trade and non-medical use of drugs, impact of the illicit trade on the safety and health of an identity, society and the state (paragraph 4).

The main directions of the Strategy are (paragraph 5):

I. Reduction in the supply of drugs by way of focused suppression of their illicit producing and trade inside the country, countering of aggressive drug-dealing.

II. Drug demand reduction by way of improving the system of prevention, medical treatment and rehabilitation work.

III. Development and enhancement of international cooperation in drug control.

Key strategic objectives are (paragraph 6):

- development and introduction of the national system of drug situation monitoring in the Russian Federation;
- elaboration and implementation of the nationwide set of measures aimed at the suppression of illicit trade of drugs and their precursors in the Russian Federation;
- elaboration of measures against drug trafficking into the territory of the Russian Federation commensurate with the existing drug threat;

- ensuring of steady state supervision over legal trade in drugs and their precursors;
- formation of a national system for the prevention of non-medical use of drugs with the priority of primary prevention measures;
- improvement of medical aid to drug addicts and their rehabilitation;
- improvement of organizational, regulatory and resource support of anti-drug activities.

Expected results of the Strategy implementation are (paragraph 47):

- significant reduction in drug supply and demand;
- significant contraction of the scope of consequences of illicit drug trade;
- establishment and operation of the state system for the monitoring over drug situation in the Russian Federation;
- establishment and operation of the state system for the prevention of non-medical use of drugs;
- up-to-date system of medical treatment and rehabilitation of drug addicts;
- strategic plans aimed at the suppression of illegal spread of drugs and their precursors both at the federal level and in the constituent territories of the Russian Federation;
- system of effective measures of countering drug trafficking into the territory of the Russian Federation;
- reliable state control over the legal trade in drugs and their precursors;
- organizational, regulatory and resource support of the anti-drug activities.

Analysis of the document and practice of its implementation allows us to emphasize the following main features of the implementation the Strategy of the Russian State Anti-drug Policy:

- *active participation of Russia in the international cooperation in the fight against drug trafficking.* The strategic objectives of the international cooperation in the field of drug control are the use of the mechanisms of multilateral and bilateral cooperation with foreign states, international organizations (especially regional ones), strengthening of the existing system of international drug control on the base of relevant bilateral and multilateral agreements developed under the auspices of the UN, Security Council resolutions, decisions of the General Assembly and other UN bodies.

Priority areas include the development of regional cooperation in drug control in the framework of the CIS, CSTO, SCO, including in the context of strengthening

the "belts" of anti-drug security around Afghanistan. It is also necessary to develop joint actions to address these issues together with the United States, European Union, NATO, etc. Examples of such cooperation are the carried out within the framework of the Collective Security Treaty Organization annual anti-drug operations "Kanal". In addition, in October 2010, have successfully conducted the first joint operation of the RF with forces of the NATO Coalition in Afghanistan to destroy several drug laboratories in the territory of this country;

- *formation of national anti-drug legislation carried out on the basis of international agreements (bilateral and multilateral) on the issues of combating illicit drug trafficking.* We are talking about the implementation of the best international practice of normative regulation in the considered area. Domestic anti-drug legislation is formed on the basis of intergovernmental agreements with the participation of the Russian Federation. Examples of such agreements are the Single Convention on Narcotic Drugs from March 30, 1961, as amended by the Protocol from February 21, 1972 [1, 15-50], the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances from December 20, 1988 [10] and others;

- *reducing of the demand for drugs in the complex of State measures.* This system of measures includes: a state system for the prevention of non-medical drug consumption, medical assistance for drug addicts, medical and social rehabilitation of drug addicts. A significant role is played here by the ideology of exclusion of drugs; working out of the people's needs in a healthier lifestyle and etc. Innovative methods of treatment of drug addicts and creation of certain centers of their re-socialization must be put into practice. Educational institutions need to implement programs aimed primarily at children and teenagers under the age of 17 years inclusive, youth under the age of 30 years, the working population, recruits and military personnel.

The strategic goal of the state policy in the field of rehabilitation of drug addicts is forming of a multi-level system that guarantees access to effective programs for rehabilitation of drug addicts, the restoration of their social status, improving the quality and increasing the longevity of drug addicts;

- *improvement of the organizational support of anti-drug activities.* Within this direction should improve the mechanism of interaction between law enforcement and other state agencies with citizens and civil society institutes on the issues of combating non-medical drug consumption and illicit drug trafficking, development and implementation of federal and regional target programs in the field of combating drug abuse and their illicit trafficking, and others;

- *strengthening of legal responsibility for the deeds with narcotic drugs and psychotropic substances.* Within this direction should be noted the tightening of administrative responsibility for the illegal consumption of drugs, criminal responsibility for crimes related to illegal trafficking in drugs and their precursors, including the sale of drugs in prisons, as well as in institutions or places used for educational, sporting, cultural, recreational and other public events, the adoption of measures aimed at stimulating social activity to inform public authorities that are engaged in combating illicit trafficking in drugs and their precursors about the cases of their illegal trafficking;

- *revealing and bringing to justice officials that "cover" drug business.* Law enforcement agencies should take a more offensive position aimed at revealing and bringing to legal responsibility of officials that "cover" drug trade. According to G. M. Meretukov, the drug situation in the country becomes more complicated because of the significant corruption of representatives of public authorities, which in the 90s of XX century in Russia was high and continues to be extremely high at present: 70% of the officials acted as consultants to drug dealers, in 12% of cases covered crimes or contributed to the release from criminal responsibility, in 8% of cases provided the necessary documents, in 28% – provided uniforms, 2.5% – supplied weapons and ammunition, etc. [7, 31];

- *expanding the list of narcotic-containing medication that must be subject of prescription.* It is primarily about codeine medication (pentalgin, kodelak, etc.), abuse of which in the Russian Federation has acquired a mass character. Resolution of the Government of the Russian Federation No. 599 from July 20, 2011 "On the Measures of Control in Respect of Medication that Contain Small Quantities of Narcotic Drugs, Psychotropic Substances and their Precursors Included in the List of Narcotic Drugs, Psychotropic Substances and their Precursors subject to control in the Russian Federation" [12] provides for entering into effect from June 01, 2012 prescription requirement regarding medication with a low concentration of codeine or its salts;

- *regulatory consolidation of expanding the range of subjects of mandatory testing to identify people who consume drugs (pupils, students, military personnel, police officers, officials of public authorities, etc.).* At a meeting of the Presidium of the RF State Council, April 18, 2011, Dmitry Medvedev stressed the high importance of counter against proliferation and consumption of narcotic drugs, psychotropic substances and their precursors among young people. The situation of the frequency of consumption narcotic substances by young people in the Russian Federation is consistently tense. In 2011, the incidence of drug abuse in Russia amounted on average

15.4 cases per 100,000 people, and among adolescents aged 15-17 years – 4.6 cases. For example, in the Omsk region maximum incidence of drug addiction among adolescents aged 15-17 years was registered in the year 2000 – 85.7 cases per 100,000 adolescents. According to data obtained in 2012, about 4% of the pupils under the age of 17 years inclusive at least once have tried drugs, among those of 18-21 years – there are 8%. Almost a one fifth of minors has familiar peers who use drugs with varying degrees of regularity, which put them "at risk" [15].

Russian Ministry of Education is recommended by the executive authorities of the subjects of the Russian Federation to organize work for testing students concerning consumption of narcotic drugs, psychotropic and other toxic substances [8]. As a positive result can be the following example. By decision of the Anti-Drug Commission under the Government of the Omsk region in 2012 in educational institutions of Omsk began conducting of a mass campaign "Freedom of Choice", involving rapid-testing on the content of drugs in a body. The aim of the campaign is the identification of adolescents under the age of 17 years who consume drugs. Events are held both with participation of narcologists of the Omsk regional narcological dispensary, and independently by educational institutions using techniques developed by experts Anti-drug Service. From the beginning of 2012, teenagers of 102 educational institutions of Omsk region took part in the campaign, 5721 of people have been tested [15]. The campaign will be continued in the year 2013.

Do not forget that a person suffering from drug addiction represents a danger to society and an individual. As a rule, they have no job, have antisocial lifestyle, get funds to purchase drugs from crime, and do not want to be treated voluntarily. As a result innocent people suffer. Therefore, guided primarily by the public interest should be taken legislative and organizational measures to protect the interests of society and law-abiding citizens from this category of persons.

In our view, an urgent need to legislate to solve the issue of revival of the system of compulsory treatment of drug addicts admitting breaking the law (criminal, administrative and tort), not wanting to be treated on a voluntary basis.

In our view, there is an urgent need of legislative resolving the issue of reviving the system of compulsory treatment of drug addicts admitting violation of the current legislation (criminal and administrative-tort), who do not want to be treated on a voluntary basis. October 25, 1990, the Committee of Constitutional Supervision of the USSR by its Conclusion No. 8 (2-10) "On the Legislation on the Issue of Compulsory Treatment and Labor Re-education of Persons Suffering from Alcoholism and Drug Addiction" [2] in fact, equated consumption of drugs to an "inalienable human right that no one is obliged to take good care of its own health".

In 1993 Medical-Labor Centers were eliminated, as a result the state lost the mechanism of compulsory treatment of drug addicts.

In conclusion note that the Strategy of the anti-drug policy of the Russian Federation until 2020, which is a necessary and timely political-legal document, needs further theoretical and practical understanding and improvement. Some of its provisions could be clarified and supplemented in anti-drug federal and regional programmes and plans that are being developed on its basis.

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ANNUAL REPORTS OF THE GOVERNMENT OF THE RUSSIAN FEDERATION ON THE RESULTS OF ITS ACTIVITIES AS A FORM OF PARLIAMENTARY CONTROL

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The article deals with the content of the reports of the Government of the Russian Federation on its activities for 2008-2012 before the State Duma of the Federal Assembly of the Russian Federation, analyses their main disadvantages and proposes a mechanism to eliminate them. Attention is given to the relationship of annual reports of the Government of the Russian Federation with other forms of parliamentary control.

Keywords: The Parliament, the State Duma of the Federal Assembly of the Russian Federation, Government report, parliamentary control, forms of parliamentary control.

Hearing of the annual reports of the Government of the Russian Federation on the results of its activities, including on the issues raised by the State Duma, as a form of parliamentary control was established by the Law of the Russian Federation for an amendment to the Constitution of the Russian Federation No. 7-FCL from 30.12.2008 "On the Control Powers of the State Duma in Respect of the Government of the Russian Federation" [2].

The initiative of making these and other constitutional amendments belonged to the President of the Russian Federation and was published November 05, 2008 in the Address to the Federal Assembly of the Russian Federation [13]. The entire

law-making process took about two months (the law was adopted by the state Duma on November 21, approved by the Federation Council on November 26 and signed by the President on December 30, 2008), due to the speed of adoption of the Law in science these novelties were called "reform at one go" [15].

The introduction of this form of parliamentary control was not something new for the Russian legal reality, since under the previously existing legislation the competence of the Supreme Soviet of the Russian Federation included an annual hearing of the report of the Chairman of the Council of Ministers of the Russian Federation on activity of the Council of Ministers of the Russian Federation. Also provided for hearing of reports of the members of the Government of the Russian Federation on the issues of their maintenance (see article 13 of the Law of the Russian Federation [1]). By the results of these procedures Parliament could put the issue of changing the composition of the Government, and express distrust of the Government in general (see article 104 of the Rules of the Supreme Soviet of the RSFSR [5]).

Prior to the amendments, the Constitution of the Russian Federation contained the duty of the Government to annually submit to the State Duma a report on the execution of the federal budget (paragraph "a" of part 1 article 114). In addition, some constitutions (charters) of the subjects of the Russian Federation contained norms requiring governments and other regional executive authorities to submit records and reports on its activities to the relevant legislative (representative) bodies [7]. The legal position on the accountability of all levels of executive power was confirmed by the Resolution of the Constitutional Court of the Russian Federation No. 19-P from 10.12.1997, which stated: "the duty of executive power to report on certain issues to the representative authority derives from the nature of executive power as the power that executes the law" (see paragraph 10 of Resolution [6]).

Thus, introduction of amendments to the Constitution of the Russian Federation on extending of parliamentary control became a natural continuation of the process of improving the domestic system of "checks and balances". Therefore, in the science of law this event in general was positively met and accompanied by the following characteristics: "it seems justified, reinforcing the parliamentary control over the executive power, increasing the degree of parliamentary responsibility of the Government" [8]; "has made quite significant changes in the Russian form of government" [10]; "the accountability of executive authority bodies to the legislative authority has been confirmed" [9]; "creates procedural conditions for a more systematic assessment of the Government of the Russian Federation" [12]; "a small step forward in the development of the existing form of government" [14].

Regulation of the new form of parliamentary control is carried out by norms of the Constitution of the Russian Federation and the Federal Constitutional Law No. 2-FCL from 17.12.1997 "On the Government of the Russian Federation" [3]. At the level of the Constitution enshrine competence of the State Duma to hear annual reports of the Government of the Russian Federation, including on the issues raised by the State Duma (paragraph "c" part 1 article 103), and the corresponding to it duty of the Government to submit annual reports on its activities, including on the issues raised by the State Duma (part 1 article 114). At the level of federal constitutional law define: the duty of the Government to submit appropriate reports (article 13), the adoption of the reports exclusively at government meetings (article 28), the preparation of the reports in the manner prescribed by the Regulations of the Government, obligatory publication of the reports in "Russian Newspaper" and "Parliamentary Newspaper" (article 40.1.).

To date the State Duma has heard the annual reports of the Government of the Russian Federation for 2008-2012 years [17; 18; 19; 20; 21]. Having analyzed the procedure of hearing reports of the Government of the Russian Federation, it should be noted that it is composed of the following stages: 1) introductory stage – in which the Prime Minister informs deputies about the general directions of the Government activities during the reporting period; 2) primary stage – in which the Prime Minister brings to deputies the information about specific results of the activities of the Government, as well as provide answers to the questions of deputies made before the hearing of report; 3) the Prime Minister answers to the questions from deputies after the hearing of report.

Semantic analysis of the provisions contained in these reports makes it possible to emphasize in them some controversial points.

First, it is hardly possible to define the information contained in the reports, just as reporting information. Etymologically, a report is a message, a report on its actions, work [11]; a written or oral report on its activities or on fulfillment of orders that should be done by a person or institution [16]; an explanation (presentation) of what has happened [16]. Accordingly, an annual report shall contain information on the actions of the Government during a reporting period.

However, in the text of the report of the Government for 2008, 40 provisions from 80 were directed at implementation in the future, at that, specific deadlines of 23 provisions were not set or their implementation went beyond the term of office of the current composition of the Government. These circumstances actually do not allow the State Duma to control them, and the current composition of the Government to implement them.

This situation can be seen in the reports for 2009-2012, for example, in the report for 2009, 40 of 108 provisions are aimed at implementing in the future, deadlines of 28 provisions are not set or their implementation go beyond the term of office of the current composition of the Government; in the report for 2010, 82 of 170 provisions are aimed at implementing in the future, deadlines of 60 provisions are not set or their implementation go beyond the term of office of the current composition of the Government; in the report for 2011, 62 of 124 provisions are aimed at implementing in the future, deadlines of 59 provisions are not set or their implementation go beyond the term of office of the current composition of the Government; in the report for 2012, 32 of 120 provisions are aimed at implementing in the future, deadlines of 20 provisions are not set.

In this connection, we can distinguish the following types of information contained in the reports of the Government: 1) provisions made during the reporting year; 2) provisions whose implementation is provided for in future periods. It appears that the second type of provisions as not-containing reporting information should not be included in the text of reports. This information should be reflected in the documents containing a program of action of the Government of the Russian Federation.

Second, due to the fact that the activity of the Government as a public authority is based on the powers set out in article 114 of the Russian Constitution, articles 13-22 of the Federal Constitutional Law "On the Government of the Russian Federation", the Government report should contain information on the activities of the Government on the implementation of the relevant powers.

Structure of reports should cover all the major areas of Government activities: 1) economics; 2) budget, financial, credit and monetary policy; 3) social sphere; 4) science, culture and education; 5) nature management and environment protection; 6) ensuring defense and state security; 7) external policy and international relations.

However, there is virtually no information on the activities of the Government in the field of ensuring legitimacy, the rights and freedoms of citizens, combating crime, as well as in the field of foreign policy and international relations in the analyzed reports. Besides, there is a periodic lack of information on the implementation of the following powers of the Government: 1) on Federal property management; 2) on the mobilization plan of economy and the readiness of its implementation; 3) on regulation of securities market; 4) on management of State internal and external debt; 5) on currency regulation and control; 6) on monetary and financial activity in relations with foreign States; 7) on ensuring the sanitary-epidemiological welfare

of population; 8) on the organization of interaction with public associations and religious organizations; 9) on providing government support for the basic science; 10) on state support for culture and preserving of cultural heritage; 11) on realization of the State policy in the field of environmental protection and ecological safety; 12) on realization of the rights of citizens to a healthy environment and providing environmental well-being; 13) on prevention natural disasters and accidents, on risk reduction and rectification of consequences; 14) on equipping weapons and military equipment, provision of material resources, resources and services for the Armed Forces of the Russian Federation; 15) on protection of the State border; 16) on improvement of civil defense; 17) on development of charity; 18) on carrying out a unified state migration policy; 19) on implementation of tax policy.

Thus, the reports of the Government do not contain information on the implementation of a significant number of powers, what in turn does not let to make a conclusion on the results of government activity during a reporting period.

Thirdly, part of information contained in the reports duplicates information approved by the federal law on the execution of the federal budget or set out in the draft federal laws on the federal budget for the next fiscal year and planning period. The number of general provisions on the expenditures (incomes) or on the planned expenditures (incomes) included in the reports of the Government, is as follows: in 2008 – 7 of 80 provisions; 2009 – 14 of 108 provisions; 2010 – 31 of 170 provisions; 2011 – 8 out of 124 provisions; 2012 – 17 out of 120 provisions.

Fourth, we should note a small amount of final indicators that allow us to evaluate the performance of the Government for a reporting period. The reports generally provide general statistics, which directly do not describe the implementation by the Government of its powers in a reporting period (for example, birth rate, industry growth).

Summarizing the above, it can be noted that much of the information contained in the annual reports of the Government cannot create for the deputies of the State Duma a whole picture of the Government activity in a reporting year.

At the same time, we should take into account that a Government report is a final form of the State Duma's parliamentary control over the activities of executive power bodies. Therefore, in our view, the report must include information on the results of consideration and the measures of implementation parliamentary requests, recommendations made by the State Duma on the results of parliamentary investigations, parliamentary hearings and "government hours" for a reporting period.

Improvement of the quality of the annual reports of the Government as a form of parliamentary control, in our opinion, can be done through detailed describing

of its content in the Federal Law No. 77-FL from 07.05.2013 "On Parliamentary Control" [4]. In this case, the following provisions could be fundamental:

1) report shall contain information on the specific results of the Government work to implement the powers enshrined in the Constitution of the Russian Federation, Federal Constitutional Law "On the Government of the Russian Federation" for a reporting year;

2) report must not contain information on the plans, the terms of implementation of which exceed the period of activity of the Government in the current composition;

3) report must not provide information that duplicate data, which are provided to the State Duma in the manner specified by the Budget Code of the Russian Federation;

4) report must include information on the results of review and measures of implementation of parliamentary requests, recommendations made by the State Duma on the results of parliamentary investigations, parliamentary hearings and "government hours" for a reporting period.

In addition, we cannot agree with the amendment to part 3 article 154.3 of the Rules of the State Duma made by the Decision of the State Duma of the RF Federal Assembly No. 268-GD from 13.04.2012, which excludes obligatoriness of adoption by the State Duma of a decision following the results of consideration of an annual report of the Government of the Russian Federation on the results of its activities. This norm turns the supervisory power provided by the constitutional amendment to the State Duma in respect of the Government of Russia into an information power without legal consequences, which significantly reduces the effectiveness of parliamentary control over executive authority. It seems necessary to establish at the legislative level an imperative norm providing for compulsory voting of the State Duma regarding confidence (non-confidence) in the Government of Russia based on the results of consideration of an annual report.

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PROBLEMS OF REALIZATION PERMISSIVE WAY OF ADMINISTRATIVE-LEGAL REGULATION

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Here is noted that the permissive way is costly enough, its implementation requires creation a system of authorized bodies specialized in areas, sectors and levels. The author argues that there is an interest of state bureaucracy in the conservation, development and extension of the permissive way of regulating to an increasing number of relationships. Negative assessment is given in the article regarding attempts to establish a permissive procedure of the performing certain activities bypassing licensing legislation.

The author notes that the list of activities subject to licensing is formally reduced, but essentially seeks to expand.

The conclusion is done that contradictory legislative regulation of permissive relations is due to the lack of a single subject of development state policy.

Keywords: administrative-legal regulation, administrative-legal regulation mechanism, permissive way of administrative-legal regulation, licensing of separate types of activity.

S. S. Alekseev – the founder of the theory of legal regulation mechanism, author of a monographic study on the major methods involved in this mechanism [18] draws a parallel between, on the one hand, the three main forms of law implementation – execution, compliance, usage, and, on the other hand, the three main legal means or ways of legal regulation – positive bindings, prohibitions and permits, in the sense that the execution matches to positive enforcements, the prohibitions – to compliance, and the usage – to permits [19, 352].

The scientist rightly points out that the division of law into branches depends on the combination of regulation methods. So, in sectorial methods, where dominates centralized regulation relating to public law, binding and prohibition prevail, in sectorial methods expressing dispositive principle, permit prevails [19, 353].

At the same time, in modern conditions, the most sought-after in the mechanism of administrative-legal regulation are not clear bindings and prohibitions, but relative prohibitions, to overcome which an entity must obtain permit from an authorized public authority. It is accompanied by bindings, which arise for a person's that has obtained permit, and absolute prohibitions to act without the permit. At that, the subject of law in permitting order applies for a permit, at its discretion, if it wants to exercise its relative (conditional, due to certain restrictions) right [23, 108-109; 20, 22].

Permissive way of administrative-legal regulation is applied in cases where there is a conflict of interest, which is described in part 3 article 55 of the Constitution of the Russian Federation and lays in the fact that in the exercise of the right of one person there is a threat to the rights of others, both individuals and their organizations, the whole society and the state. This conflict is eliminated through the establishment of requirements to the procedure of performance, commission actions necessary for the exercising of such right, as well as to the very person, its physical, mental, professional and moral qualities. Hence the most important legal feature of permits – aim that lies in ensuring safety.

Receiving a permit, subject of law qualitatively changes its legal personality, acquiring additional rights and, in some cases, corresponding to them responsibilities. However, the commission of required for obtaining a permit actions is not promoted, and not commission – is not punished. Refusal of receiving a permit does not entail any consequences, conditional right does not arise in the refuser's legal personality, and it is not affected at all. So, for the emergence of a citizen's right to drive a car, it must undergo a medical examination, submit an application to the State Road Traffic Safety Inspection, pass an examination on the knowledge of rules and driving skills, pass the procedure of obtaining a certifying document

– driver's-license [14]. A citizen, who has not received a driver's license, does not have right to drive.

Permit has a lot of advantages in relation to other ways of legal regulation, as it allows differentiating the degree of difficulty of the conditions for obtaining a permit, depending on the degree of social danger of permitted activities. So, to do business provide for minimum restrictions that can be easily overcome almost by any citizen [2]. On the other hand, to obtain a license for operation of chemically dangerous or inflammable production facilities an applicant must meet a series of complex conditions, undergo a rigorous and lengthy vetting process, and subsequently maintain the state of safe operation of these facilities [15, 16]. Subsequent continuous monitoring by authorized supervisory bodies can provide a safe exercise of right by an interested person and to balance the interests of this person and others.

At the same time, permissive way is very expensive. Its implementation requires the creation of a system of authorized bodies specializing in areas (public order, environment, fire safety), industries (transportation, manufacturing, construction, service, trade, defense), levels (federal, regional, local); the forming of legal basis of permitting activity, including the development and approval of requirements to permitted activities and to persons who receive permits; the creation of information infrastructure; the management of state information systems, monitoring cases for each person that receive permits; the implementation of administrative supervision over implementation of permitted activity; and the applying measures of administrative and sometimes criminal coercion. It should also be borne in mind that the permissive way of regulation in its content lies in establishment of administrative barriers to business, which in the end leads to a decrease in GDP. Another significant negative satellite of permitting activity is corruption.

Public administration optimization requires reducing costs, reducing administrative barriers and excluding corruption factors. The main ways of solving these problems are already visible in the Russian law: the replacement of permissive way by self-regulation, declaring, compulsory civil liability insurance, the establishment of a notification procedure for implementation certain types of activities.

At the same time the need to respond to changing external conditions, the increasing complexity of social relations, the development of techniques and technologies stimulate the development of permitting system. Takes place the interest of state bureaucracy in the preserving, development and dissemination of permissive way of regulation for a wider range of relations. As a consequence, there is the establishment of excessive, sometimes unreal conditions of receiving a permit;

the establishment of the permissive way of implementation activities by subordinate acts; the evasion from assessment of implications of a particular type of permissions on the dynamics of development of regulated relations; the deviation from the goal, and applying of permissive way in order to facilitate supervision activity.

For example, the Law of the Moscow region No. 268/2005-03 from December 27, 2005 (as amended on 23.03.2012) "On the Organization of Public Transportation Services in the Moscow Region" [21] introduces a permit to work on a route (certificate of permit to work on a route) for the transport of passengers and goods by regular transport routes. The legislation of the Altai Republic provides for permits for catching stray animals; for management of non-residential premises that are in state ownership of the Republic or municipal property; for placing pavilions, kiosks, signage, signs, fences, metal garages, cellars and other temporary structures, open parking for road transport in the territories of public use [8]. Bashkir legislation – permit to conduct transplantation of embryos and artificial insemination [10]; for industrial harvesting of growing wild medicinal raw materials [11]; for transportation, forwarding and sale of bees and apiculture products [9].

Separate permitting regimes of exercising civil rights and freedoms, not related to business activities, acquire legal foundation only now, although they have been existing for decades. Permitting procedure of exercising the right to drive vehicles (cars and motorcycles) got its legislative formulation only after the adoption of the Federal Law No. 196-FL from December 10, 1995 "On Road Safety" [1], although the need for obtaining a special right had been provided for since the first years of Soviet power. Permitting regime of exercising hunting rights became consistent with the Constitution of the Russian Federation after the adoption of the Federal Law No. 209-FL from July 24, 2009 "On Hunting and Preserving of Hunting Resources and on Amendments to Certain Legislative Acts of the Russian Federation" [5].

Up to the present moment, the permitting regime of waterborne traffic with using by citizens of small vessels is based on the approved by the order of the Ministry of Emergency Situations of Russia No. 498 from June 29, 2005 "Rules for certification of ship driver to the right to control small vessels supervised by the State Inspectorate for Small Vessels of the Ministry of the Russian Federation for Civil Defense, Emergencies and Disaster Control" [17]. Also issuance of permits for control of tractors and self-propelled machines is provided for by the Rules of admission to the control of self-propelled machines and issuing of tractor-driver's certificates approved by the Decision of the Government of the Russian Federation No. 796 from July 12, 1999 [13].

As for the goal-setting, here the situation is also far from well.

In accordance with part 1 article 2 of the Federal Law No. 99-FL from May 04, 2011 "On Licensing Certain Types of Activities" [7] licensing of certain types of activities is carried out in order to prevent prejudice to the rights, legitimate interests, life or health of people, the environment, cultural heritage (monuments of history and culture) of the Russian Federation, the defense and security of the state, the possibility of infliction of which is related to the implementation by legal entities and individual entrepreneurs of certain types of activities. Implementation of licensing of certain types of activity for other purposes is not allowed.

There is also no doubt that permitting regimes in the field of transport are set for the protection of life, health and property of citizens, protection of their rights and legitimate interests, as well as protection of the interests of society and the state by preventing accidents, reducing the severity of their consequences. Assignment of quotas for production of water bio-resources in accordance with the Federal Law № 166-FL from December 20, 2004 "On Fisheries and Preserving of Water Bio-resources" [3] is set in order to preserve the populations of aquatic bio-resources, to meet the needs of citizens.

On the other hand, the state registration of motor vehicles, according to the preamble of decision of the Government of the Russian Federation No. 938 from August 12, 1994 "On State Registration of Motor Vehicles and other Self-propelled Machinery in the territory of the Russian Federation", which, in fact, represents the "legislation of the Russian Federation" on state registration, establishes that the registration of vehicles is carried out in order to ensure the completeness of their account [12].

As follows from article 1 of the law of Moscow region No. 268/2005-OZ from December 27, 2005 (as amended on 23.03.2012) "On the Organization of Public Transportation Services in the Moscow Region", its objectives are:

1) meeting people's needs for transport services that meet safety requirements;

2) establishment of legal and economic foundations of transport services;

3) maintenance of transport service market functioning;

4) ensuring the unity of concepts and the system of legal regulation in the sphere of passenger transport.

Permitting regime of organization and activities of retail markets, established by the laws of the subjects of the Russian Federation in accordance with the requirements of part 3 article 4 of the Federal Law No. 271-FL from December 30, 2006 "On Retail Markets and on Amendments to the Labor Code of the Russian

Federation" [4], in this regard, seems the most striking specimen of ignoring of not only the RF Constitution, but also of elementary logic.

The following procedure is introduced:

1) subject of the Russian Federation shall develop and approve the plan for the organization of markets taking into account the needs of municipal formations. The plan provides for the location of alleged markets, their number and types;

2) local self-government body approves the procedure of organization of market in its territory in accordance with the approved plan;

3) a legal entity that owns real estate that is located in the territory, within which the alleged market is expected to be organized, receives in local self-government body a permit to the right of organization the market.

Attention is drawn by the legal structure "permit to the right", instead of "permit to organize".

Local self-government body may refuse to provide a "permit to the right" to the applicant, please note, who already owns real estate located in the territory, which a subject of the Russian Federation allocated for the organization on it a market (I wonder, has it happened by accident – lucky?). And what to do if the owner of the real estate located in this territory is using them for other purposes and is not going to organize a market in there?

Permit is granted for a period not exceeding 5 years (let's note that a license is perpetual, but here – up to 5 years). Permit may be suspended for a period of administrative suspension of activity of a market management company. In addition, permit may be cancelled. Here we see a clear divergence of objectives and means of regulation. The plan of markets' organization includes a particular retail market on the base of the need to provide the population of municipal formations located within the territory of this subject of the Russian Federation these or other goods. So, the key condition is the needs of population. But in the issuance of "permit to the right" and in its cancellation the key condition already is not taken into account. So, what is the purpose of the permitting regime of organization and activity of retail markets? It seems that the purpose of regulation is regulation itself. How appropriate to set a permitting procedure for organization of markets? How this affects the quality and completeness of satisfying the needs of population for goods and products? May the permitting procedure restrict competition? Has increased whether the quality of services, the quality of goods and products sold in permitted markets? There are no data.

Efforts to set permitting procedure of exercising certain types of activities ignoring the legislation on licensing deserve extremely negative assessment.

For example, article 9 of the Federal Law No. 69-FL from April 21, 2011 (as amended on 23.04.2012) "On Amendments to Certain Legislative Acts of the Russian Federation" [6] introduced permitting procedure for the carriage of passengers and baggage in passenger taxi. In accordance with paragraph 24 part 1 article 12 of the Federal Law No. 99-FL from May 04, 2011 (as amended on 04.03.2013) "On Licensing Certain Types of Activities", only activities related to transportation of passengers by motor vehicles equipped to transport more than eight people are subject to licensing (except if this activity is carried out on the orders or to provide the needs of a legal entity or an individual entrepreneur) [7]. However, the permitting procedure of taxi transportations in its content does not differ from the licensing procedure. In addition, in accordance with part 2 article 8 of the Federal Law No. 294-FL from December 26, 2008 (as amended on 12.11.2012) "On the Protection of the Rights of Legal Entities and Individual Entrepreneurs in the Exercise of State Control (Supervision) and Municipal Control", provision services of transportation of passengers and luggage under orders by cars (with the exception of the implementation of such transportations on regular traffic routes, as well as for the own needs of legal entities and individual entrepreneurs) is implemented by giving a notice. Thus, the list of activities subject to licensing is formally being reduced and essentially is seeking to expand.

There is no any reliable information in part of assessing the impact of the chosen way of regulation of public relations on the situation in the relevant field and on the level of safety. Remains an open question how the safety of the carriage of goods by road has changed after the abolition of licensing of this activity type or how the establishment of notification procedure of beginning business activities has impacted on state of services.

It can be assumed that such a contradictory legislative regulation of permitting relations is due to the lack of a single subject of formulation of state policy, the fact that this activity is carried out by actors, which variously understand goals and tasks of legal regulation. If the Russian Ministry of Economic Development aims to create favorable conditions for business development, reduce administrative barriers, then Ministry of Transport of Russia and other sectorial subjects seek to, on the contrary, strengthen them in order to strengthen control and enhance opportunities of influence on the evolving situation.

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